

112TH CONGRESS
2D SESSION

H. R. 4301

To contribute to the growth of the American economy and the strength of American national security by streamlining regulatory permitting procedures and increasing domestic production from all energy sources.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2012

Mr. DUNCAN of South Carolina (for himself, Mr. WILSON of South Carolina, Mr. POE of Texas, Mr. HARRIS, Mr. WESTMORELAND, Mr. GOHMERT, Mr. GRAVES of Georgia, Mr. BROUN of Georgia, Mr. MULVANEY, Mr. SCOTT of South Carolina, Mr. GOWDY, and Mr. LANDRY) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, the Judiciary, Rules, Ways and Means, Agriculture, Armed Services, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To contribute to the growth of the American economy and the strength of American national security by streamlining regulatory permitting procedures and increasing domestic production from all energy sources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Energy Exploration
3 and Production to Achieve National Demand Act” or the
4 “EXPAND Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.
- Sec. 4. Statement of policy.
- Sec. 5. Definitions.

TITLE I—DEVELOPMENT OF FEDERAL ENERGY RESOURCES

Subtitle A—Oil and Gas Leasing in the Gulf of Mexico

- Sec. 101. Leasing in the Eastern Gulf of Mexico.
- Sec. 102. Extension of deepwater oil and natural gas leases in Gulf of Mexico.

**Subtitle B—Scheduled Leasing, Exploration, and Development of Oil and
Natural Gas in the Federal Outer Continental Shelf**

- Sec. 121. Expanded outer Continental Shelf lease sales.
- Sec. 122. Geological and geophysical activities in expanded leasing areas.
- Sec. 123. Payments from areas newly available to leasing.
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- Sec. 125. Determination of adjacent zones and planning areas.

**Subtitle C—Leasing, Exploration, and Development of Oil and Natural Gas
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- Sec. 131. Establishment of leasing program for Coastal Plain.
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- Sec. 133. Federal and State distribution of revenues.
- Sec. 134. Rights-of-way across the Coastal Plain.
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- Sec. 136. Local government impact aid and community service assistance.

**Subtitle D—Improvement of Interagency Coordination and Cooperation in the
Processing of Federal Permits for Production of Domestic Oil and Gas Re-
sources**

- Sec. 141. Regulatory certainty.
- Sec. 142. Regional offices and regional permit coordinators.
- Sec. 143. Reviews and actions of Federal agencies.
- Sec. 144. Lead agency.
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- Sec. 149. Review of agency permitting decisions.
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Subtitle E—Prohibition on New Wilderness or Wilderness Study Areas on Lands Administered by the BLM Without Congressional Approval; Indian Land Development

- Sec. 161. Repeal of Executive order.
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Subtitle F—Legal Causes and Claims Pertaining to the Leasing and Development of Federal Lands for Exploration and Production of Oil, Natural Gas, Associated Hydrocarbons, and Oil Shale

- Sec. 171. Oil shale, tar sands, and other strategic unconventional fuels.
- Sec. 172. Energy production on Federal lands.
- Sec. 173. Jurisdiction.
- Sec. 174. Judicial review.
- Sec. 175. Time for filing petition for judicial review; standing, filing of record.
- Sec. 176. Limitation on scope of review and relief.
- Sec. 177. Exclusion.

Subtitle G—Development of Solar and Wind Energy on Public Land

- Sec. 181. Definitions.
- Sec. 182. Programmatic environmental impact statements and land use planning.
- Sec. 183. Development of solar and wind energy on public land.
- Sec. 184. Disposition of revenues.

Subtitle H—Miscellaneous Provisions

- Sec. 191. Military operations.
- Sec. 192. Environmental sensitivity analysis under the program.
- Sec. 193. Validity of existing leases.
- Sec. 194. Integrity of lease sales and leasing schedule.
- Sec. 195. Authority to conduct offshore drilling under approved permits.
- Sec. 196. Time requirement to act on oil and natural gas drilling permits.
- Sec. 197. Timely issuance of onshore oil and gas leases.
- Sec. 198. State auditing.

TITLE II—CONTINENTAL PIPELINE APPROVAL

- Sec. 201. Keystone XL pipeline permit approval.

TITLE III—RADIOLOGICAL MATERIAL REPOSITORY

- Sec. 301. Radiological material repository.

TITLE IV—RELIEF FROM REGULATIONS AND PROHIBITIONS THAT CAUSE ARTIFICIAL PRICE INCREASES

- Sec. 401. Endangered Species Act of 1973 reform.
- Sec. 402. Repeal of EPA climate change regulation.
- Sec. 403. Repeal of Federal ban on synthetic fuels purchasing requirement.
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TITLE V—REFINERY REFORM

- Sec. 501. Refinery permitting process.
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TITLE VI—REPEAL OF ENERGY TAX SUBSIDIES

- Sec. 600. Amendment of 1986 code.
- Sec. 601. Repeal of credit for alcohol fuel, biodiesel, and alternative fuel mixtures.
- Sec. 602. Repeal of credit for certain plug-in electric vehicles.
- Sec. 603. Early termination of credit for qualified fuel cell motor vehicles.
- Sec. 604. Repeal of alternative fuel vehicle refueling property credit.
- Sec. 605. Repeal of credit for alcohol used as fuel.
- Sec. 606. Repeal of credit for biodiesel and renewable diesel used as fuel.
- Sec. 607. Repeal of enhanced oil recovery credit.
- Sec. 608. Termination of credit for electricity produced from certain renewable resources.
- Sec. 609. Repeal of credit for producing oil and gas from marginal wells.
- Sec. 610. Termination of credit for production from advanced nuclear power facilities.
- Sec. 611. Repeal of credit for carbon dioxide sequestration.
- Sec. 612. Termination of energy credit.
- Sec. 613. Repeal of qualifying advanced coal project.
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- Sec. 615. Repeal of American Recovery and Reinvestment Act of 2009 energy grant program.

TITLE VII—REGULATORY RELIEF

- Sec. 701. Legislative stay.
- Sec. 702. Compliance dates.
- Sec. 703. Energy recovery and conservation.
- Sec. 704. Other provisions.
- Sec. 705. Management and disposal of coal combustion residuals.

TITLE VIII—ATTAINMENT OF NATIONAL AMBIENT AIR QUALITY STANDARDS

- Sec. 801. Air quality monitoring and modeling methodologies.
- Sec. 802. Extending compliance for NAAQS attainment for downwind States.

TITLE IX—SUB-BASIN REPORTING OF GREENHOUSE GAS EMISSIONS

- Sec. 901. Sub-basin reporting of greenhouse gas emissions.

TITLE X—IMPLEMENTATION OF NATIONAL OCEAN POLICY

- Sec. 1001. Prohibition on use of funds.

TITLE XI—OTHER PROVISIONS

- Sec. 1101. Administrative record.
- Sec. 1102. Statement of energy effects.
- Sec. 1103. Priority-Energy Project permit duration.
- Sec. 1104. Exemption for takings of migratory bird incidental to energy development and production.

1 **SEC. 3. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the United States spends over
4 \$1,000,000,000 per day to import crude oil from
5 foreign countries, representing the largest wealth
6 transfer in history;

7 (2) the domestic oil and natural gas industry is
8 responsible for approximately 9.2 million jobs;

9 (3) the United States has substantial undevel-
10 oped oil and natural gas resources underlying Fed-
11 eral lands;

12 (4) multiple legal challenges relating to the
13 leasing, exploration, and development of Federal
14 lands can significantly delay and even prevent these
15 desperately needed oil and natural gas resources
16 from reaching the American public;

17 (5) expedited and focused judicial review of
18 legal challenges to proposed oil and natural gas de-
19 velopment activities is necessary to ensure that addi-
20 tional American oil and natural gas resources are
21 made available without undue delay to American
22 consumers;

23 (6) the approximately 43 million leased outer
24 Continental Shelf acres currently account for about
25 15 percent of the United States domestic natural

1 gas production and about 27 percent of the United
2 States domestic oil production;

3 (7) the leasing of these domestic offshore areas
4 for oil and natural gas development provides signifi-
5 cant economic benefits to the Federal Government,
6 as well as to States and localities, through the cre-
7 ation and sustenance of jobs and domestic product;

8 (8) the Federal Government distributed over
9 \$10,000,000,000 to Federal, State and Indian ac-
10 counts from energy production during fiscal year
11 2009, primarily from oil and natural gas production;

12 (9) the outer Continental Shelf is a vital na-
13 tional resource reserve held by the Federal Govern-
14 ment for the public, which should be made available
15 for expeditious and orderly development, subject to
16 environmental safeguards, in a manner that is con-
17 sistent with the maintenance of competition and
18 other national needs;

19 (10) Executive Order 13563 on Improving Reg-
20 ulation and Regulatory Review, issued on January
21 18, 2011, requires that to the extent permitted by
22 law, each agency must, among other things—

23 (A) propose or adopt a regulation only
24 upon a reasoned determination that its benefits

1 justify its costs (recognizing that some benefits
2 and costs are difficult to quantify);

3 (B) tailor its regulations to impose the
4 least burden on society, consistent with obtain-
5 ing regulatory objectives, taking into account,
6 among other things, and to the extent prac-
7 ticable, the costs of cumulative regulations;

8 (C) select, in choosing among alternative
9 regulatory approaches, those approaches that
10 maximize net benefits (including potential eco-
11 nomic, environmental, public health and safety,
12 and other advantages; distributive impacts; and
13 equity);

14 (D) to the extent feasible, specify perform-
15 ance objectives, rather than specifying the be-
16 havior or manner of compliance that regulated
17 entities must adopt; and

18 (E) identify and assess available alter-
19 natives to direct regulation, including providing
20 economic incentives to encourage the desired
21 behavior, such as user fees or marketable per-
22 mits, or providing information upon which
23 choices can be made by the public;

24 (11) Executive Order 13547 on Stewardship of
25 the Ocean, Our Coasts, and the Great Lakes, issued

1 on July 19, 2010, provides for the development of
2 coastal and marine spatial plans (CMSP) that build
3 upon and improve existing Federal, State, tribal,
4 local, and regional decisionmaking and planning
5 processes;

6 (12) the Outer Continental Shelf Lands Act (43
7 U.S.C. 1331 et seq.) already provides a comprehen-
8 sive and complete framework for undertaking oil and
9 gas activities within the framework of a CMSP-
10 based program;

11 (13) through the Outer Continental Shelf
12 Lands Act, Congress has already established the
13 process for development of coastal and marine spa-
14 tial plans for oil and gas leasing and other author-
15 izations, and it is not necessary to create a new reg-
16 ulatory regime as this would go against the Execu-
17 tive Order;

18 (14) the Coastal Plain of Alaska is an impor-
19 tant potential new source of domestic oil and gas
20 production;

21 (15) the delivery of oil from Alberta, Canada, to
22 domestic markets in the United States is in the na-
23 tional interest of the United States, and the earliest
24 possible completion of the Keystone XL pipeline will
25 best serve the national interest;

1 (16) there are 104 nuclear reactors currently
2 operating in the United States, providing 20 percent
3 of the electricity of the United States, slightly less
4 than the electricity generated by natural gas;

5 (17) nuclear energy is the largest provider of
6 clean, low-carbon electricity, almost 8 times larger
7 than all renewable power production combined, ex-
8 cluding hydroelectric power;

9 (18) nuclear power is responsible for 72 percent
10 of emission-free electricity production in the United
11 States and is an essential tool for greenhouse gas re-
12 duction;

13 (19) nuclear power plants virtually eliminate
14 emissions of greenhouse gases and criteria pollutants
15 associated with acid rain, smog, or ozone;

16 (20) nuclear energy supplies consistent, base-
17 load electricity, independent of environmental condi-
18 tions;

19 (21) nuclear power is a safe, reliable, efficient,
20 and affordable source of energy;

21 (22) between 1960 and 1980, the Nuclear Reg-
22 ulatory Commission issued 169 permits to construct
23 nuclear power facilities;

1 (23) even if every nuclear power plant is grant-
2 ed a 20-year extension, all currently operating nu-
3 clear power plants will be retired by 2055;

4 (24) long lead times for nuclear power plant li-
5 censing, permitting, and construction indicate that
6 action to stimulate the nuclear power industry
7 should not be delayed;

8 (25) there are 17 combined operating license
9 applications currently pending before the Nuclear
10 Regulatory Commission for 26 new reactors in the
11 United States, with 4 applications inactive due to
12 regulatory uncertainty;

13 (26) those proposed reactors will use the latest
14 in nuclear technology for efficiency and safety, more
15 advanced than the technology of the 1960s and
16 1970s found in the reactors currently operating in
17 the United States;

18 (27) increasing nuclear power threefold will cre-
19 ate 480,000 construction jobs, 140,000 permanent
20 jobs, and \$20,000,000,000 in local, State, and Fed-
21 eral tax revenue each year;

22 (28) increasing nuclear power threefold will re-
23 duce electricity-based carbon dioxide emissions by
24 1,400,000,000 metric tons annually and will reduce

1 carbon emissions by 65 percent from current emis-
2 sions levels by 2050;

3 (29) increasing nuclear power threefold will
4 produce 320 gigawatts of electricity to power
5 237,000,000 households and constitute 52 percent of
6 the United States electricity portfolio by 2030;

7 (30) the Nuclear Waste Policy Act of 1982 (42
8 U.S.C. 10101 et seq.) requires the Federal Govern-
9 ment to take ownership of high-level radioactive
10 waste and spent nuclear fuel and build a permanent
11 geologic repository in which to store such waste;

12 (31) the Nuclear Waste Policy Act of 1982, as
13 amended in 1987, selected the Yucca Mountain site
14 to be the sole geologic repository in which to store
15 high-level radioactive waste and spent nuclear fuel;

16 (32) the Congress reaffirmed Yucca Mountain
17 as the sole candidate site for a geologic repository in
18 2001;

19 (33) despite such laws, the Government has
20 failed to accept high-level radioactive waste and
21 spent nuclear fuel from utilities and has delayed
22 construction of the Yucca Mountain repository;

23 (34) failure to accept high-level radioactive
24 waste and spent nuclear fuel has led to more than
25 74 lawsuits filed by utilities against the Government,

1 \$1,000,000,000 in settlements being paid, and an
2 estimated \$16,200,000,000 in potential liabilities to
3 settle remaining lawsuits;

4 (35) each year the Government refuses to ac-
5 cept high-level radioactive waste and spent nuclear
6 fuel adds an estimated \$500,000,000 in additional
7 liabilities associated with future lawsuits;

8 (36) the failure of the Federal Government to
9 accept high-level radioactive waste and spent nuclear
10 fuel from utilities is a significant barrier to the fu-
11 ture development of additional nuclear power;

12 (37) the United States has 58,000 tons of radi-
13 ological material stored at more than 100 sites in 39
14 States;

15 (38) the 104 commercial nuclear reactors oper-
16 ating in the United States produce approximately
17 2,000 tons of spent nuclear fuel every year;

18 (39) the Yucca Mountain repository's capacity
19 is statutorily limited to 70,000 tons of waste but can
20 safely hold 120,000 tons;

21 (40) operators who have paid into the Nuclear
22 Waste Fund have been denied access to permanent
23 storage of radiological material as promised by the
24 Federal Government;

1 (41) permanent geologic storage capacity is a
2 finite resource on which the industry depends; and

3 (42) operators have the technical expertise to
4 develop new and more efficient processes of dis-
5 posing of new radiological material.

6 (b) PURPOSES.—The purposes of this Act are to—

7 (1) promote expansion of domestic employment
8 opportunities;

9 (2) respond to the Nation’s increased need for
10 domestic energy resources, including oil and natural
11 gas resources;

12 (3) support the utilization of the outer Conti-
13 nental Shelf for oil and gas production and trans-
14 mission;

15 (4) confirm and ensure the validity of oil and
16 gas leases issued under the Final Outer Continental
17 Shelf Oil and Gas Leasing Program, 2007–2012;

18 (5) ensure the continued leasing of outer Conti-
19 nental Shelf areas pursuant to the Final Outer Con-
20 tinental Shelf Oil and Gas Leasing Program, 2007–
21 2012;

22 (6) facilitate interagency coordination and co-
23 operation in the processing of permits required to
24 support oil and gas use authorization on Federal
25 lands, both onshore and on the outer Continental

1 Shelf, in order to achieve greater consistency, cer-
2 tainty, and timeliness in permit processing require-
3 ments;

4 (7) promote process streamlining and increased
5 interagency efficiency, including elimination of inter-
6 agency duplication of effort;

7 (8) improve information sharing among agen-
8 cies and understanding of respective agency roles
9 and responsibilities;

10 (9) promote coordination with State agencies
11 with expertise and responsibilities related to Federal
12 oil and gas permitting decisions, and balance Fed-
13 eral interests with the interests and well-being of
14 State and local communities;

15 (10) promote responsible stewardship of Fed-
16 eral oil and gas resources;

17 (11) maintain high standards of safety and en-
18 vironmental protection; and

19 (12) enhance the benefits to Federal permitting
20 already occurring as a result of a coordinated and
21 timely interagency process for oil and gas permit re-
22 view for certain Federal oil and gas leases.

23 **SEC. 4. STATEMENT OF POLICY.**

24 It is the policy of the United States, given the impor-
25 tance of making a transition to a clean energy, low-carbon

1 economy, to facilitate the continued development and
2 growth of a safe and clean nuclear energy industry
3 through reductions in financial, regulatory, and technical
4 barriers to construction and operation.

5 **SEC. 5. DEFINITIONS.**

6 For purposes of this Act—

7 (1) ACT.—The term “Act” means the Outer
8 Continental Shelf Lands Act (43 U.S.C. 1331 et
9 seq.).

10 (2) AUTHORIZING LEASING STATUTE.—The
11 term “authorizing leasing statute” means the Outer
12 Continental Shelf Lands Act (43 U.S.C. 1331 et
13 seq.), the Mineral Leasing Act (30 U.S.C. 181 et
14 seq.), the Mineral Leasing Act for Acquired Lands
15 (30 U.S.C. 351 et seq.), and any other law author-
16 izing the use or disposition of Federal lands for oil
17 and gas production or transmission.

18 (3) COASTAL PLAIN.—The term “Coastal
19 Plain” means that area described in appendix I to
20 part 37 of title 50, Code of Federal Regulations.

21 (4) COVERED OIL AND NATURAL GAS ACTIV-
22 ITY.—The term “covered oil and natural gas activ-
23 ity” means—

24 (A) the leasing or other disposition of any
25 lands pursuant to an authorizing leasing statute

1 for the exploration, development, production,
2 processing, or transmission of oil, natural gas,
3 or associated hydrocarbons, and oil shale, in-
4 cluding actions or decisions relating to the se-
5 lection of which lands may or shall be made
6 available for such leasing; and

7 (B) any activity taken or proposed to be
8 taken pursuant or in relation to such leases, in-
9 cluding their suspension, and any environ-
10 mental analyses relating to such activity.

11 (5) OTHER TERMS.—Any terms used in this
12 Act shall have the meaning such term has in the
13 Act.

14 (6) PRIORITY ENERGY PROJECT.—The term
15 “Priority Energy Project” means a project or facil-
16 ity in the United States whose operation results in
17 the production of a domestic supply of energy or the
18 generation of electricity.

19 (7) PRIORITY ENERGY PROJECT DEVELOPER.—
20 The term “Priority Energy Project Developer”
21 means a person, organization, or other entity that
22 owns or operates a Priority Energy Project.

23 (8) PROGRAM.—The term “program” means a
24 Final Outer Continental Shelf Oil and Gas Leasing

1 Program issued pursuant to section 18 of the Act
 2 (43 U.S.C. 1344).

3 (9) SECRETARY.—The term “Secretary” means
 4 the Secretary of the Interior, unless otherwise indi-
 5 cated.

6 **TITLE I—DEVELOPMENT OF**
 7 **FEDERAL ENERGY RESOURCES**
 8 **Subtitle A—Oil and Gas Leasing in**
 9 **the Gulf of Mexico**

10 **SEC. 101. LEASING IN THE EASTERN GULF OF MEXICO.**

11 (a) TERMINATION OF MORATORIUM.—Section 104 of
 12 the Gulf of Mexico Energy Security Act of 2006 (43
 13 U.S.C. 1331 note; Public Law 109–432) is amended by
 14 striking subsection (a) and redesignating subsections (b)
 15 and (c) as subsections (a) and (b), respectively.

16 (b) NATIONAL DEFENSE AREA.—Section 12(d) of
 17 the Outer Continental Shelf Lands Act (43 U.S.C.
 18 1341(d)) is amended—

19 (1) by striking “The United States” and insert-
 20 ing the following:

21 “(1) IN GENERAL.—The United States”; and

22 (2) by adding at the end the following:

23 “(2) REVIEW.—Annually, the Secretary of De-
 24 fense shall review the areas of the outer Continental
 25 Shelf that have been designated as restricted from

1 exploration and operation to determine whether the
2 areas should remain under restriction.”.

3 (c) LEASING OF MORATORIUM AREAS.—

4 (1) DESTIN DOME AND PENSACOLA AREAS.—

5 Within 1 year after the date of the enactment of this
6 Act, the Secretary shall offer for leasing under the
7 Outer Continental Shelf Lands Act (43 U.S.C. 1331
8 et seq.), the Destin Dome (OPD NH 16–08) and
9 Pensacola (OPD NH 16–05) areas.

10 (2) OTHER AREAS.—As soon as practicable
11 after the date of enactment of this Act, the Sec-
12 retary shall offer for leasing under the Outer Conti-
13 nental Shelf Lands Act (43 U.S.C. 1331 et seq.),
14 any other areas in the Eastern Gulf of Mexico Plan-
15 ning Area that are made available for leasing pursu-
16 ant to subsection (a).

17 (3) ADMINISTRATION.—The areas described in
18 paragraphs (1) and (2) shall be offered for lease
19 under this section notwithstanding the omission of
20 any of those areas from the 5-year leasing program
21 approved by the Secretary under section 18 of the
22 Outer Continental Shelf Lands Act (43 U.S.C.
23 1344) in effect at the time of the lease sale. The
24 Secretary shall include the areas described in para-

1 graphs (1) and (2) in any 5-year leasing program
2 approved after the date of enactment of this Act.

3 (d) COASTAL ZONE MANAGEMENT ACT OF 1972 RE-
4 VIEW.—The Secretary’s decision to hold a lease sale for
5 the areas described in section 101(c) shall not be subject
6 to consistency review under the Coastal Zone Management
7 Act of 1972 (16 U.S.C. 1451 et seq.).

8 **SEC. 102. EXTENSION OF DEEPWATER OIL AND NATURAL**
9 **GAS LEASES IN GULF OF MEXICO.**

10 (a) DEFINITION OF COVERED LEASE.—In this sec-
11 tion the term “covered lease” means each oil and gas lease
12 for the Gulf of Mexico Outer Continental Shelf region
13 issued under section 8(b) of the Outer Continental Shelf
14 Lands Act (43 U.S.C. 1337(b)) that was not producing
15 as of April 30, 2010.

16 (b) EXTENSION OF COVERED LEASES.—The Sec-
17 retary of the Interior shall extend the term of a covered
18 lease by 24 months.

19 (c) MINIMUM DEEPWATER WELL REQUIREMENT.—
20 If fewer than 20 exploration or development wells have
21 been spudded on deepwater leases in the Gulf of Mexico
22 within 18 months after the date of enactment of this Act,
23 the 24-month period under subsection (b) for deepwater
24 leases (water depths of 500 feet or greater) shall be ex-
25 tended by an additional 18 months.

1 (d) EFFECT OF EXTENSION ON SUSPENSIONS.—The
2 lease term extension under this Act shall be in addition
3 to any lease term suspension either granted or directed
4 under section 5(a)(1) of the Act (43 U.S.C. 1334(a)(1))
5 prior to or following the date of enactment of this Act.

6 (e) LEASE REINSTATEMENT.—The Secretary shall
7 reinstate any lease subject to subsection (a) that expired
8 between April 30, 2010 and the date of enactment of this
9 Act, with a new expiration date as provided in subsection
10 (b).

11 **Subtitle B—Scheduled Leasing, Ex-**
12 **ploration, and Development of**
13 **Oil and Natural Gas in the Fed-**
14 **eral Outer Continental Shelf**

15 **SEC. 121. EXPANDED OUTER CONTINENTAL SHELF LEASE**
16 **SALES.**

17 (a) IN GENERAL.—Beginning in fiscal year 2012, the
18 Secretary shall conduct all lease sales included in Table
19 A of the Draft Proposed Outer Continental Shelf Oil and
20 Gas Leasing Program 2010–2015, issued January 2009.
21 All such lease sales shall be conducted in accordance with
22 this section.

23 (b) EIS.—The Secretary is deemed to have issued a
24 final environmental impact statement for the program de-
25 scribed in subsection (a) in accordance with all require-

1 ments under section 102(2)(C) of the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

3 (c) EXEMPTION FROM CONSISTENCY REVIEW.—The
4 Secretary’s decision to hold a lease sale required under
5 this section shall not be subject to consistency review
6 under the Coastal Zone Management Act of 1972 (16
7 U.S.C. 1451 et seq).

8 (d) LEASING PROGRAM.—The Secretary shall pre-
9 pare and make available a 2015–2020 Draft Proposed
10 Outer Continental Shelf Oil and Gas Leasing Program no
11 later than 1 year after the date of enactment of this Act.

12 (e) REQUIREMENT TO MAINTAIN PROGRAM.—The
13 Secretary’s implementation of the requirements of this
14 section shall fulfill the requirement under section 19 of
15 the Act (43 U.S.C. 1345) to maintain an oil and gas leas-
16 ing program through June 30, 2015.

17 **SEC. 122. GEOLOGICAL AND GEOPHYSICAL ACTIVITIES IN**
18 **EXPANDED LEASING AREAS.**

19 (a) EIS FOR ATLANTIC OCS PLANNING AREA.—
20 Within 1 year after the date of enactment of this Act, the
21 Secretary shall issue a Final Programmatic Environ-
22 mental Impact Statement and Record of Decision pursu-
23 ant to the National Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.), assessing the environmental effects

1 of geological and geophysical activities in the Atlantic
2 Outer Continental Shelf Planning Area.

3 (b) PERMITS FOR ATLANTIC OCS PLANNING
4 AREA.—The Secretary shall approve any permit that
5 meets the requirements of the Act for geologic and geo-
6 physical activities in the Atlantic Outer Continental Shelf
7 Planning Area, including areas in the Southern Atlantic
8 outer Continental Shelf.

9 (c) PRELIMINARY EIS FOR SOUTHERN CALIFORNIA
10 OCS PLANNING AREA.—Not later than 18 months after
11 the date of enactment of this Act, the Secretary shall issue
12 a Preliminary Environmental Impact Statement pursuant
13 to the National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.) to assess the environmental impacts
15 of geophysical activities in the Southern California Outer
16 Continental Shelf Planning Area.

17 **SEC. 123. PAYMENTS FROM AREAS NEWLY AVAILABLE TO**
18 **LEASING.**

19 (a) IN GENERAL.—Notwithstanding section 9 of the
20 Act (43 U.S.C. 1338), upon enactment of this Act and
21 each fiscal year thereafter, 37.5 percent of all bonuses,
22 rents, royalties, and other sums due and payable to the
23 United States received on or after enactment of this Act
24 from outer Continental Shelf leases entered into on or
25 after the date of enactment of this Act shall be paid to

1 the coastal States that are Adjacent States with respect
2 to such leases. Such payment shall be allocated to each
3 such Adjacent State in amounts (based on a formula es-
4 tablished by the Secretary by regulation) that are inversely
5 proportional to the respective distances between the point
6 on the coastline of the Adjacent State that is closest to
7 the geographic center of the applicable leased tract and
8 the geographic center of the leased tract.

9 (b) EXCLUSIONS.—Subsection (a) shall not apply
10 to—

11 (1) revenues from the forfeiture of a bond or
12 other surety securing obligations other than royal-
13 ties, civil penalties, or royalties taken by the Sec-
14 retary in-kind and not sold; and

15 (2) revenues generated from leases subject to
16 section 8(g) of the Act (43 U.S.C. 1137(g)).

17 (c) USE OF PAYMENTS TO STATES.—Amounts paid
18 to a State under subsection (a) shall be used by the State
19 for such purposes as that State considers necessary.

20 (d) GULF OF MEXICO OUTER CONTINENTAL SHELF
21 REVENUES.—

22 (1) LIMITATION ON APPLICATION.—Subsection
23 (a) shall not affect the application of section 105 of
24 the Gulf of Mexico Energy Security Act of 2006
25 (title I of division C of Public Law 109–432; (43

1 U.S.C. 1331 note)), as in effect before the enact-
2 ment of this Act, with respect to revenues received
3 by the United States under oil and gas leases issued
4 for tracts located in the Western and Central Gulf
5 of Mexico Outer Continental Shelf Planning Areas,
6 including such leases issued on or after the date of
7 the enactment of this Act.

8 (2) AMOUNT OF DISTRIBUTED QUALIFIED
9 OUTER CONTINENTAL SHELF REVENUES.—Section
10 105(f)(1) of the Gulf of Mexico Energy Security Act
11 of 2006 (title I of division C of Public Law 109–
12 432; (43 U.S.C. 1331 note)) is amended by striking
13 “2055” and inserting “2022, and shall not exceed
14 \$750,000,000 for each of fiscal years 2023 through
15 2055”.

16 **SEC. 124. DEFINITIONS UNDER THE OUTER CONTINENTAL**
17 **SHELF LANDS ACT.**

18 Section 2 of the Outer Continental Shelf Lands Act
19 (43 U.S.C. 1331) is amended—

20 (1) by amending paragraph (f) to read as fol-
21 lows:

22 “(f) The term ‘affected State’ means the Adjacent
23 State.”;

1 (2) by striking the semicolon at the end of each
2 of paragraphs (a) through (o) and inserting a pe-
3 riod;

4 (3) by striking “; and” at the end of paragraph
5 (p) and inserting a period;

6 (4) by adding at the end the following:

7 “(r) The term ‘Adjacent State’ means, with respect
8 to any program, plan, lease sale, leased tract, or other ac-
9 tivity, proposed, conducted, or approved pursuant to this
10 Act, any State the laws of which are declared, pursuant
11 to section 4(a)(2), to be the law of the United States for
12 the portion of the outer Continental Shelf on which such
13 program, plan, lease sale, leased tract, or activity apper-
14 tains or is, or is proposed to be, conducted.

15 “(s) The term ‘State’ includes all States having a
16 coastline contiguous to the Arctic, Atlantic, or Pacific
17 Ocean, or the Gulf of Mexico, the Commonwealth of Puer-
18 to Rico, the Commonwealth of the Northern Mariana Is-
19 lands, the United States Virgin Islands, American Samoa,
20 Guam, the other territories of the United States, and the
21 District of Columbia.

22 “(t) The term ‘Adjacent Zone’ means, with respect
23 to any program, plan, lease sale, leased tract, or other ac-
24 tivity, proposed, conducted, or approved pursuant to this
25 Act, the portion of the outer Continental Shelf for which

1 the laws of a particular Adjacent State are declared, pur-
 2 suant to section 4(a)(2), to be the law of the United
 3 States.

4 “(u) The term ‘miles’ means statute miles.

5 “(v) The term ‘coastline’ has the same meaning as
 6 the term ‘coast line’ as defined in section 2(c) of the Sub-
 7 merged Lands Act (43 U.S.C. 1301(c)).

8 “(w) The term ‘Neighboring State’ means a coastal
 9 State having a common boundary at the coastline with the
 10 Adjacent State.”; and

11 (5) in paragraph (a), by inserting after “con-
 12 trol” the following: “or lying within the United
 13 States Exclusive Economic Zone and outer Conti-
 14 nental Shelf adjacent to the Commonwealth of Puer-
 15 to Rico, the Commonwealth of the Northern Mar-
 16 iana Islands, the United States Virgin Islands,
 17 American Samoa, Guam, or any other territory of
 18 the United States”.

19 **SEC. 125. DETERMINATION OF ADJACENT ZONES AND**
 20 **PLANNING AREAS.**

21 Section 4(a)(2)(A) of the Outer Continental Shelf
 22 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
 23 first sentence by striking “, and the President” and all
 24 that follows through the end of the sentence and inserting
 25 the following: “. The lines extending seaward and defining

1 each State's Adjacent Zone, and the Atlantic OCS Plan-
 2 ning Area, are as indicated on the maps for the Atlantic
 3 Outer Continental Shelf region entitled 'Atlantic OCS Re-
 4 gion State Adjacent Zones and OCS Planning Areas',
 5 which is dated September 2005 and is on file in the Office
 6 of the Director, Minerals Management Service. The Sec-
 7 retary shall designate the Adjacent Zones of States, and
 8 additional OCS Planning Areas, for parts of the United
 9 States Exclusive Economic Zone and outer Continental
 10 Shelf not covered by those maps.".

11 **Subtitle C—Leasing, Exploration,**
 12 **and Development of Oil and**
 13 **Natural Gas Resources in Por-**
 14 **tions of the Coastal Plain of**
 15 **Alaska**

16 **SEC. 131. ESTABLISHMENT OF LEASING PROGRAM FOR**
 17 **COASTAL PLAIN.**

18 The Secretary shall take such actions as are nec-
 19 essary—

20 (1) to establish and implement, in accordance
 21 with this subtitle and acting through the Director of
 22 the Bureau of Land Management in consultation
 23 with the Director of the United States Fish and
 24 Wildlife Service, a competitive oil and gas leasing
 25 program that will result in an environmentally sound

1 program for the exploration, development, and pro-
2 duction of the oil and gas resources of the Coastal
3 Plain; and

4 (2) to administer the provisions of this title
5 through regulations, lease terms, conditions, restric-
6 tions, prohibitions, stipulations, and other provisions
7 that ensure the oil and gas exploration, development,
8 and production activities on the Coastal Plain will
9 minimize any significant adverse effects on fish and
10 wildlife, their habitat, subsistence resources, and the
11 environment, including, in furtherance of this goal,
12 by requiring the application of the best commercially
13 available technology for oil and gas exploration, de-
14 velopment, and production to all exploration, devel-
15 opment, and production operations under this title
16 in a manner that ensures the receipt of fair market
17 value by the public for the mineral resources to be
18 leased.

19 **SEC. 132. CONDUCT OF LEASING PROGRAM.**

20 (a) REPEAL.—

21 (1) REPEAL.—Section 1003 of the Alaska Na-
22 tional Interest Lands Conservation Act of 1980 (16
23 U.S.C. 3143) is repealed.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents in section 1 of such Act is amended by
3 striking the item relating to section 1003.

4 (b) COMPLIANCE WITH REQUIREMENTS UNDER
5 CERTAIN OTHER LAWS.—

6 (1) COMPATIBILITY.—For purposes of the Na-
7 tional Wildlife Refuge System Administration Act of
8 1966 (16 U.S.C. 668dd et seq.), the oil and gas
9 leasing program and activities authorized by this
10 subtitle in the Coastal Plain are deemed to be com-
11 patible with the purposes for which the Arctic Na-
12 tional Wildlife Refuge was established, and no fur-
13 ther findings or decisions are required to implement
14 this determination.

15 (2) ADEQUACY OF THE DEPARTMENT OF THE
16 INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT
17 STATEMENT.—The “Final Legislative Environ-
18 mental Impact Statement” (April 1987) on the
19 Coastal Plain prepared pursuant to section 1002 of
20 the Alaska National Interest Lands Conservation
21 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
22 of the National Environmental Policy Act of 1969
23 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
24 quirements under the National Environmental Policy
25 Act of 1969 that apply with respect to prelease ac-

1 tivities, including actions authorized to be taken by
2 the Secretary to develop and promulgate the regula-
3 tions for the establishment of a leasing program au-
4 thorized by this subtitle before the conduct of the
5 first lease sale.

6 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
7 TIONS.—Before conducting the first lease sale under
8 this subtitle, the Secretary shall prepare an environ-
9 mental impact statement under the National Envi-
10 ronmental Policy Act of 1969 with respect to the ac-
11 tions authorized by this subtitle that are not re-
12 ferred to in paragraph (2). Notwithstanding any
13 other law, the Secretary is not required to identify
14 nonleasing alternative courses of action or to analyze
15 the environmental effects of such courses of action.
16 The Secretary shall only identify a preferred action
17 for such leasing and a single leasing alternative, and
18 analyze the environmental effects and potential miti-
19 gation measures for those two alternatives. The
20 identification of the preferred action and related
21 analysis for the first lease sale under this subtitle
22 shall be completed within 18 months after the date
23 of enactment of this Act. The Secretary shall only
24 consider public comments that specifically address
25 the Secretary's preferred action and that are filed

1 within 20 days after publication of an environmental
2 analysis. Notwithstanding any other law, compliance
3 with this paragraph is deemed to satisfy all require-
4 ments for the analysis and consideration of the envi-
5 ronmental effects of proposed leasing under this sub-
6 title. In preparing or reviewing an environmental as-
7 sessment pursuant to the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any
9 regulations promulgated thereto, an agency shall
10 consider, in addition to any mitigation required by
11 the agency, all applicable Federal, State, local, and
12 other laws and regulations, guidelines, permit condi-
13 tions, and any other requirements and best practices
14 regarding a Priority Energy Project and any other
15 actions considered in a cumulative effects analysis.
16 Pursuant to that, the agency shall make a finding
17 of no significant impact or a mitigated finding of no
18 significant impact, as applicable, unless, presuming
19 administrative regularity, the agency can conclu-
20 sively demonstrate that the mitigation required by
21 the agency and the applicable Federal, State, local,
22 and other laws and regulations, guidelines, permit
23 conditions, and any other requirements and best
24 practices regarding a Priority Energy Project and
25 any other actions considered in a cumulative effects

1 analysis will not prevent or otherwise mitigate a sig-
2 nificant impact on the human environment.

3 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
4 ITY.—Nothing in this subtitle shall be considered to limit
5 State and local regulatory authority.

6 (d) SPECIAL AREAS.—

7 (1) IN GENERAL.—The Secretary, after con-
8 sultation with the State of Alaska, the city of
9 Kaktovik, and the North Slope Borough, may des-
10 ignate up to a total of 45,000 acres of the Coastal
11 Plain as a Special Area if the Secretary determines
12 that the Special Area is of such unique character
13 and interest so as to require special management
14 and regulatory protection. The Secretary shall des-
15 ignate as such a Special Area the Sadlerochit Spring
16 area, comprising approximately 4,000 acres.

17 (2) MANAGEMENT.—Each such Special Area
18 shall be managed so as to protect and preserve the
19 area's unique and diverse character including its
20 fish, wildlife, and subsistence resource values.

21 (3) EXCLUSION FROM LEASING OR SURFACE
22 OCCUPANCY.—The Secretary may exclude any Spe-
23 cial Area from leasing. If the Secretary leases a Spe-
24 cial Area, or any part thereof, for purposes of oil
25 and gas exploration, development, production, and

1 related activities, there shall be no surface occu-
2 pancy of the lands comprising the Special Area.

3 (4) DIRECTIONAL DRILLING.—Notwithstanding
4 the other provisions of this subsection, the Secretary
5 may lease all or a portion of a Special Area under
6 terms that permit the use of horizontal drilling tech-
7 nology from sites on leases located outside the Spe-
8 cial Area.

9 (e) LIMITATION ON CLOSED AREAS.—The Sec-
10 retary's sole authority to close lands within the Coastal
11 Plain to oil and gas leasing and to exploration, develop-
12 ment, and production is that set forth in this subtitle.

13 (f) REGULATIONS.—The Secretary shall prescribe
14 such regulations as may be necessary to carry out this
15 subtitle, including rules and regulations relating to protec-
16 tion of the fish and wildlife, their habitat, subsistence re-
17 sources, and environment of the Coastal Plain, by no later
18 than 12 months after the date of enactment of this Act.

19 (g) LEASE SALES.—

20 (1) IN GENERAL.—Lands may be leased pursu-
21 ant to this subtitle to any person qualified to obtain
22 a lease for deposits of oil and gas under the Mineral
23 Leasing Act (30 U.S.C. 181 et seq.).

24 (2) PROCEDURES.—The Secretary shall, by reg-
25 ulation, establish procedures for—

1 (A) receipt and consideration of sealed
2 nominations for any area in the Coastal Plain
3 for inclusion in, or exclusion (as provided in
4 subparagraph (C)) from, a lease sale;

5 (B) the holding of lease sales after such
6 nomination process; and

7 (C) public notice of and comment on des-
8 ignation of areas to be included in, or excluded
9 from, a lease sale.

10 (3) LEASE SALE BIDS.—Bidding for leases
11 under this subtitle shall be by sealed competitive
12 cash bonus bids.

13 (4) ACREAGE MINIMUM IN FIRST SALE.—In the
14 first lease sale under this subtitle, the Secretary
15 shall offer for lease those tracts the Secretary con-
16 siders to have the greatest potential for the dis-
17 covery of hydrocarbons, taking into consideration
18 nominations received pursuant to paragraph (2)(A),
19 but in no case less than 200,000 acres.

20 (5) TIMING OF LEASE SALES.—The Secretary
21 shall—

22 (A) conduct the first lease sale under this
23 subtitle within 18 months after the date of the
24 enactment of this Act;

1 (B) evaluate the bids in such sale and
2 issue leases resulting from such sale, within 90
3 days after the date of the completion of such
4 sale; and

5 (C) conduct additional sales so long as suf-
6 ficient interest in development exists to war-
7 rant, in the Secretary's judgment, the conduct
8 of such sales.

9 (h) GRANT OF LEASES BY THE SECRETARY.—

10 (1) IN GENERAL.—The Secretary may grant to
11 the highest responsible qualified bidder in a lease
12 sale conducted pursuant to subsection (g) any lands
13 to be leased on the Coastal Plain upon payment by
14 the lessee of such bonus as may be accepted by the
15 Secretary.

16 (2) SUBSEQUENT TRANSFERS.—No lease issued
17 under this subtitle may be sold, exchanged, assigned,
18 sublet, or otherwise transferred except with the ap-
19 proval of the Secretary. Prior to any such approval
20 the Secretary shall consult with, and give due con-
21 sideration to the views of, the Attorney General.

22 (i) LEASE TERMS AND CONDITIONS.—An oil or gas
23 lease issued pursuant to this subtitle shall—

24 (1) provide for the payment of a royalty of
25 37½ percent in amount or value of the production

1 removed or sold from the lease, as determined by the
2 Secretary under the regulations applicable to other
3 Federal oil and gas leases;

4 (2) require that the lessee of lands within the
5 Coastal Plain shall be fully responsible and liable for
6 the reclamation of lands within the Coastal Plain
7 and any other Federal lands that are adversely af-
8 fected in connection with exploration, development,
9 production, or transportation activities conducted
10 under the lease and within the Coastal Plain by the
11 lessee or by any of the subcontractors or agents of
12 the lessee;

13 (3) provide that the lessee may not delegate or
14 convey, by contract or otherwise, the reclamation re-
15 sponsibility and liability to another person without
16 the express written approval of the Secretary;

17 (4) provide that the standard of reclamation for
18 lands required to be reclaimed under this subtitle
19 shall be, as nearly as practicable, a condition capable
20 of supporting the uses which the lands were capable
21 of supporting prior to any exploration, development,
22 or production activities, or upon application by the
23 lessee, to a higher or better use as approved by the
24 Secretary;

1 (5) contain terms and conditions relating to
2 protection of fish and wildlife, their habitat, subsist-
3 ence resources, and the environment as required
4 pursuant to section 131(2);

5 (6) provide that the lessee, its agents, and its
6 contractors use best efforts to provide a fair share,
7 as determined by the level of obligation previously
8 agreed to in the 1974 agreement implementing sec-
9 tion 29 of the Federal Agreement and Grant of
10 Right of Way for the Operation of the Trans Alaska
11 Pipeline, of employment and contracting for Alaska
12 Natives and Alaska Native Corporations from
13 throughout the State; and

14 (7) contain such other provisions as the Sec-
15 retary determines necessary to ensure compliance
16 with the provisions of this subtitle and the regula-
17 tions issued under this subtitle.

18 (j) LEASE APPROVAL DEADLINES.—

19 (1) IN GENERAL.—Not later than 10 business
20 days after the date on which an agency receives an
21 application for any permit, authorization, or other
22 agency action with respect to a lease under this sub-
23 title, the agency shall—

24 (A) notify the applicant that the applica-
25 tion is complete; or

1 (B) notify the applicant that information is
2 missing and specify any information that is re-
3 quired to be submitted for the application to be
4 complete.

5 (2) ISSUANCE OR DEFERRAL.—Not later than
6 30 days after the applicant for such a permit, au-
7 thorization, or other agency action has submitted a
8 complete application, the agency shall—

9 (A) issue the permit; or

10 (B)(i) defer the decision on the permit;
11 and

12 (ii) provide to the applicant a notice that
13 specifies any steps that the applicant could take
14 for the permit to be issued.

15 (3) REQUIREMENTS FOR DEFERRED APPLICA-
16 TIONS.—

17 (A) IN GENERAL.—If the agency provides
18 notice under paragraph (2)(B), the applicant
19 shall have a period of 2 years from the date of
20 receipt of the notice in which to complete all re-
21 quirements specified by the agency, including
22 providing information needed for compliance
23 with the National Environmental Policy Act of
24 1969 (42 U.S.C. 4321 et seq.).

1 (B) ISSUANCE OF DECISION ON PERMIT.—

2 If the applicant completes the requirements
3 within the period specified in subparagraph (A),
4 the agency shall issue a decision on the permit
5 not later than 10 days after the date of comple-
6 tion of the requirements described in subpara-
7 graph (A).

8 (C) DENIAL OF PERMIT.—If the applicant
9 does not complete the requirements within the
10 period specified in subparagraph (A) the agency
11 shall deny the permit.

12 (4) AGENCY REQUIREMENTS.—In any applica-
13 tion for a permit, authorization, or other agency ac-
14 tion, the agency shall be prohibited from requiring
15 the applicant to perform any analyses, studies, or
16 other activities that are novel, unprecedented, or
17 otherwise inconsistent with past requirements for
18 permit applicants in the same or similar situations.

19 (5) FAILURE TO ACT.—In the event the agency
20 fails to meet any deadline set forth in this section,
21 the agency shall immediately grant the requested
22 permit, authorization, or other approval.

23 (k) COASTAL PLAIN ENVIRONMENTAL PROTEC-
24 TION.—

1 (1) NO SIGNIFICANT ADVERSE EFFECT STAND-
2 ARD TO GOVERN AUTHORIZED COASTAL PLAIN AC-
3 TIVITIES.—The Secretary shall, consistent with the
4 requirements of paragraph (3), administer the provi-
5 sions of this subtitle through regulations, lease
6 terms, conditions, restrictions, prohibitions, stipula-
7 tions, and other provisions that—

8 (A) ensure the oil and gas exploration, de-
9 velopment, and production activities on the
10 Coastal Plain will result in no significant ad-
11 verse effect on fish and wildlife, their habitat,
12 and the environment;

13 (B) require the application of the best
14 commercially available technology for oil and
15 gas exploration, development, and production
16 on all new exploration, development, and pro-
17 duction operations; and

18 (C) ensure that the maximum amount of
19 surface acreage covered by production and sup-
20 port facilities, including airstrips and any areas
21 covered by gravel berms or piers for support of
22 pipelines, does not exceed 5,000 acres on the
23 Coastal Plain.

24 (2) SITE-SPECIFIC ASSESSMENT AND MITIGA-
25 TION.—The Secretary shall also require, with re-

1 spect to any proposed drilling and related activities
2 pursuant to this subtitle, that—

3 (A) a site-specific analysis be made of the
4 probable effects, if any, that the drilling or re-
5 lated activities will have on fish and wildlife,
6 their habitat, subsistence resources, and the en-
7 vironment;

8 (B) a plan be implemented to avoid, mini-
9 mize, and mitigate (in that order and to the ex-
10 tent practicable) any significant adverse effect
11 identified under subparagraph (A); and

12 (C) the development of the plan shall occur
13 after consultation with the agency or agencies
14 having jurisdiction over matters mitigated by
15 the plan.

16 (3) REGULATIONS TO PROTECT COASTAL PLAIN
17 FISH AND WILDLIFE RESOURCES, SUBSISTENCE
18 USERS, AND THE ENVIRONMENT.—Before imple-
19 menting the leasing program authorized by this sub-
20 title, the Secretary shall prepare and promulgate
21 regulations, lease terms, conditions, restrictions, pro-
22 hibitions, stipulations, and other measures designed
23 to ensure that the activities undertaken on the
24 Coastal Plain under this subtitle are conducted in a

1 manner consistent with the purposes and environ-
2 mental requirements of this subtitle.

3 (4) COMPLIANCE WITH FEDERAL AND STATE
4 ENVIRONMENTAL LAWS AND OTHER REQUIRE-
5 MENTS.—The proposed regulations, lease terms,
6 conditions, restrictions, prohibitions, and stipulations
7 for the leasing program under this subtitle shall re-
8 quire compliance with all applicable provisions of
9 Federal and State environmental law, and shall also
10 require the following:

11 (A) Standards at least as effective as the
12 safety and environmental mitigation measures
13 set forth in items 1 through 29 at pages 167
14 through 169 of the “Final Legislative Environ-
15 mental Impact Statement” (April 1987) on the
16 Coastal Plain.

17 (B) That exploration activities shall be
18 supported, if necessary, by ice roads, winter
19 trails with adequate snow cover, ice pads, ice
20 airstrips, and air transport methods, except
21 that such exploration activities may occur at
22 other times if the Secretary finds that such ex-
23 ploration will have no significant adverse effect
24 on the fish and wildlife, their habitat, and the
25 environment of the Coastal Plain.

1 (C) Design safety and construction stand-
2 ards for all pipelines and any access and service
3 roads, that—

4 (i) minimize, to the maximum extent
5 possible, adverse effects upon the passage
6 of migratory species such as caribou; and

7 (ii) minimize adverse effects upon the
8 flow of surface water by requiring the use
9 of culverts, bridges, and other structural
10 devices.

11 (D) Prohibitions on general public access
12 and use on all pipeline access and service roads.

13 (E) Stringent reclamation and rehabilita-
14 tion requirements, consistent with the stand-
15 ards set forth in this subtitle, requiring the re-
16 moval from the Coastal Plain of all oil and gas
17 development and production facilities, struc-
18 tures, and equipment upon completion of oil
19 and gas production operations, except that the
20 Secretary may exempt from the requirements of
21 this subparagraph those facilities, structures, or
22 equipment that the Secretary determines would
23 assist in the management of the Arctic National
24 Wildlife Refuge and that are donated to the
25 United States for that purpose.

1 (F) Appropriate prohibitions or restrictions
2 on access by all modes of transportation.

3 (G) Appropriate prohibitions or restrictions
4 on sand and gravel extraction.

5 (H) Consolidation of facility siting.

6 (I) Appropriate prohibitions or restrictions
7 on use of explosives.

8 (J) Avoidance, to the extent practicable, of
9 springs, streams, and river system; the protec-
10 tion of natural surface drainage patterns, wet-
11 lands, and riparian habitats; and the regulation
12 of methods or techniques for developing or
13 transporting adequate supplies of water for ex-
14 ploratory drilling.

15 (K) Avoidance or minimization of air traf-
16 fic-related disturbance to fish and wildlife.

17 (L) Treatment and disposal of hazardous
18 and toxic wastes, solid wastes, reserve pit
19 fluids, drilling muds and cuttings, and domestic
20 wastewater, including an annual waste manage-
21 ment report, a hazardous materials tracking
22 system, and a prohibition on chlorinated sol-
23 vents, in accordance with applicable Federal
24 and State environmental law.

1 (M) Fuel storage and oil spill contingency
2 planning.

3 (N) Research, monitoring, and reporting
4 requirements.

5 (O) Field crew environmental briefings.

6 (P) Avoidance of significant adverse effects
7 upon subsistence hunting, fishing, and trapping
8 by subsistence users.

9 (Q) Compliance with applicable air and
10 water quality standards.

11 (R) Appropriate seasonal and safety zone
12 designations around well sites, within which
13 subsistence hunting and trapping shall be lim-
14 ited.

15 (S) Reasonable stipulations for protection
16 of cultural and archeological resources.

17 (T) All other protective environmental stip-
18 ulations, restrictions, terms, and conditions
19 deemed necessary by the Secretary.

20 (I) CONSIDERATIONS.—In preparing and promul-
21 gating regulations, lease terms, conditions, restrictions,
22 prohibitions, and stipulations under this section, the Sec-
23 retary shall consider the following:

24 (1) The stipulations and conditions that govern
25 the National Petroleum Reserve-Alaska leasing pro-

1 gram, as set forth in the 1999 Northeast National
2 Petroleum Reserve-Alaska Final Integrated Activity
3 Plan/Environmental Impact Statement.

4 (2) The environmental protection standards
5 that governed the initial Coastal Plain seismic explo-
6 ration program under parts 37.31 to 37.33 of title
7 50, Code of Federal Regulations.

8 (3) The land use stipulations for exploratory
9 drilling on the KIC–ASRC private lands that are set
10 forth in appendix 2 of the August 9, 1983, agree-
11 ment between Arctic Slope Regional Corporation and
12 the United States.

13 (m) ENVIRONMENTAL APPEALS BOARD.—

14 (1) LIMITATION ON DELEGATION OF AUTHOR-
15 ITY.—The Administrator of the Environmental Pro-
16 tection Agency shall not delegate any authority to
17 the Environmental Appeals Board to consider, re-
18 view, reject, remand, or otherwise invalidate any per-
19 mit for activity under a lease under this title.

20 (2) PERFORMANCE BY SECRETARY.—The Ad-
21 ministrator shall perform all duties currently as-
22 signed to the Environmental Appeals Board in the
23 Secretary’s individual capacity.

24 (n) FACILITY CONSOLIDATION PLANNING.—

1 (1) IN GENERAL.—The Secretary shall, after
2 providing for public notice and comment, prepare
3 and update periodically a plan to govern, guide, and
4 direct the siting and construction of facilities for the
5 exploration, development, production, and transpor-
6 tation of Coastal Plain oil and gas resources.

7 (2) OBJECTIVES.—The plan shall have the fol-
8 lowing objectives:

9 (A) Avoiding unnecessary duplication of fa-
10 cilities and activities.

11 (B) Encouraging consolidation of common
12 facilities and activities.

13 (C) Locating or confining facilities and ac-
14 tivities to areas that will minimize impact on
15 fish and wildlife, their habitat, and the environ-
16 ment.

17 (D) Utilizing existing facilities wherever
18 practicable.

19 (E) Enhancing compatibility between wild-
20 life values and development activities.

21 (o) ACCESS TO PUBLIC LANDS.—The Secretary
22 shall—

23 (1) manage public lands in the Coastal Plain
24 subject to subsections (a) and (b) of section 811 of

1 the Alaska National Interest Lands Conservation
2 Act (16 U.S.C. 3121); and

3 (2) ensure that local residents shall have rea-
4 sonable access to public lands in the Coastal Plain
5 for traditional uses.

6 (p) EXPEDITED JUDICIAL REVIEW.—

7 (1) FILING OF COMPLAINT.—

8 (A) DEADLINE.—A complaint seeking judi-
9 cial review of any provision of this section or
10 any action of the Secretary under this section
11 shall be filed—

12 (i) within the 90-day period beginning
13 on the date of the action being challenged;
14 or

15 (ii) in the case of a complaint based
16 solely on grounds arising after such period,
17 within 90 days after the complainant knew
18 or reasonably should have known of the
19 grounds for the complaint.

20 (B) VENUE.—Any complaint seeking judi-
21 cial review of any provision of this subtitle or
22 any action of the Secretary under this subtitle
23 may be filed only in the United States Court of
24 Appeals for the District of Columbia.

1 (C) LIMITATION ON SCOPE OF CERTAIN
 2 REVIEW.—Judicial review of a Secretarial deci-
 3 sion to conduct a lease sale under this subtitle,
 4 including the environmental analysis thereof,
 5 shall be limited to whether the Secretary has
 6 complied with this subtitle and shall be based
 7 upon the administrative record of that decision.
 8 The Secretary's identification of a preferred
 9 course of action to enable leasing to proceed
 10 and the Secretary's analysis of environmental
 11 effects under this subtitle shall be presumed to
 12 be correct unless shown otherwise by clear and
 13 convincing evidence to the contrary.

14 (2) LIMITATION ON OTHER REVIEW.—Actions
 15 of the Secretary with respect to which review could
 16 have been obtained under this section shall not be
 17 subject to judicial review in any civil or criminal pro-
 18 ceeding for enforcement.

19 **SEC. 133. FEDERAL AND STATE DISTRIBUTION OF REVE-**
 20 **NUES.**

21 (a) IN GENERAL.—All adjusted bonus, rental, and
 22 royalty revenues from Federal oil and gas leasing and op-
 23 erations authorized under this subtitle shall be subject to
 24 distribution in the same manner as for Federal oil and

1 gas leases under section 35 of the Mineral Leasing Act
2 (30 U.S.C. 191).

3 (b) PAYMENTS TO ALASKA.—Payments to the State
4 of Alaska under this section shall be made semiannually.

5 **SEC. 134. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

6 (a) IN GENERAL.—The Secretary shall issue rights-
7 of-way and easements across the Coastal Plain for the
8 transportation of oil and gas—

9 (1) except as provided in paragraph (2), under
10 section 28 of the Mineral Leasing Act (30 U.S.C.
11 185), without regard to title XI of the Alaska Na-
12 tional Interest Lands Conservation Act (30 U.S.C.
13 3161 et seq.); and

14 (2) under title XI of the Alaska National Inter-
15 est Lands Conservation Act (30 U.S.C. 3161 et
16 seq.), for access authorized by sections 1110 and
17 1111 of that Act (16 U.S.C. 3170 and 3171).

18 (b) TERMS AND CONDITIONS.—The Secretary shall
19 include in any right-of-way or easement issued under sub-
20 section (a) such terms and conditions as may be necessary
21 to ensure that transportation of oil and gas does not result
22 in a significant adverse effect on the fish and wildlife, sub-
23 sistence resources, their habitat, and the environment of
24 the Coastal Plain, including requirements that facilities be

1 sited or designed so as to avoid unnecessary duplication
2 of roads and pipelines.

3 (c) REGULATIONS.—The Secretary shall include in
4 regulations under section 132 provisions granting rights-
5 of-way and easements described in subsection (a).

6 **SEC. 135. CONVEYANCE.**

7 In order to maximize Federal revenues by removing
8 clouds on title to lands and clarifying land ownership pat-
9 terns within the Coastal Plain, the Secretary, notwith-
10 standing section 1302(h)(2) of the Alaska National Inter-
11 est Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall
12 convey—

13 (1) to the Kaktovik Inupiat Corporation the
14 surface estate of the lands described in paragraph 1
15 of Public Land Order 6959, to the extent necessary
16 to fulfill the Corporation's entitlement under sec-
17 tions 12 and 14 of the Alaska Native Claims Settle-
18 ment Act (43 U.S.C. 1611 and 1613) in accordance
19 with the terms and conditions of the Agreement be-
20 tween the Department of the Interior, the United
21 States Fish and Wildlife Service, the Bureau of
22 Land Management, and the Kaktovik Inupiat Cor-
23 poration effective January 22, 1993; and

24 (2) to the Arctic Slope Regional Corporation
25 the remaining subsurface estate to which it is enti-

1 tled pursuant to the August 9, 1983, agreement be-
2 tween the Arctic Slope Regional Corporation and the
3 United States of America.

4 **SEC. 136. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
5 **NITY SERVICE ASSISTANCE.**

6 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

7 (1) IN GENERAL.—The Secretary may use
8 amounts available from the Coastal Plain Local Gov-
9 ernment Impact Aid Assistance Fund established by
10 subsection (d) to provide timely financial assistance
11 to entities that are eligible under paragraph (2) and
12 that are directly impacted by the exploration for or
13 production of oil and gas on the Coastal Plain under
14 this subtitle.

15 (2) ELIGIBLE ENTITIES.—The North Slope
16 Borough, the City of Kaktovik, and any other bor-
17 ough, municipal subdivision, village, or other com-
18 munity in the State of Alaska that is directly im-
19 pacted by exploration for, or the production of, oil
20 or gas on the Coastal Plain under this subtitle, as
21 determined by the Secretary, shall be eligible for fi-
22 nancial assistance under this section.

23 (b) USE OF ASSISTANCE.—Financial assistance
24 under this section may be used only for—

1 (1) planning for mitigation of the potential ef-
2 fects of oil and gas exploration and development on
3 environmental, social, cultural, recreational, and sub-
4 sistence values;

5 (2) implementing mitigation plans and main-
6 taining mitigation projects;

7 (3) developing, carrying out, and maintaining
8 projects and programs that provide new or expanded
9 public facilities and services to address needs and
10 problems associated with such effects, including fire-
11 fighting, police, water, waste treatment, medivac,
12 and medical services; and

13 (4) establishment of a coordination office, by
14 the North Slope Borough, in the City of Kaktovik,
15 that shall—

16 (A) coordinate with and advise developers
17 on local conditions, impact, and history of the
18 areas utilized for development; and

19 (B) provide to the Committee on Natural
20 Resources of the House of Representatives and
21 the Committee on Energy and Natural Re-
22 sources of the Senate an annual report on the
23 status of coordination between developers and
24 the communities affected by development.

25 (c) APPLICATION.—

1 (1) IN GENERAL.—Any community that is eligi-
2 ble for assistance under this section may submit an
3 application for such assistance to the Secretary, in
4 such form and under such procedures as the Sec-
5 retary may prescribe by regulation.

6 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
7 community located in the North Slope Borough may
8 apply for assistance under this section either directly
9 to the Secretary or through the North Slope Bor-
10 ough.

11 (3) APPLICATION ASSISTANCE.—The Secretary
12 shall work closely with and assist the North Slope
13 Borough and other communities eligible for assist-
14 ance under this section in developing and submitting
15 applications for assistance under this section.

16 (d) ESTABLISHMENT OF FUND.—

17 (1) IN GENERAL.—There is established in the
18 Treasury the Coastal Plain Local Government Im-
19 pact Aid Assistance Fund.

20 (2) USE.—Amounts in the fund may be used
21 only for providing financial assistance under this
22 section.

23 (3) DEPOSITS.—Subject to paragraph (4), there
24 shall be deposited into the fund amounts received by
25 the United States as revenues derived from rents,

1 bonuses, and royalties from Federal leases and lease
2 sales authorized under this subtitle.

3 (4) LIMITATION ON DEPOSITS.—The total
4 amount in the fund may not exceed \$11,000,000.

5 (5) INVESTMENT OF BALANCES.—The Sec-
6 retary of the Treasury shall invest amounts in the
7 fund in interest bearing government securities.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
9 vide financial assistance under this section there is author-
10 ized to be appropriated to the Secretary from the Coastal
11 Plain Local Government Impact Aid Assistance Fund
12 \$5,000,000 for each fiscal year.

13 **Subtitle D—Improvement of Inter-**
14 **agency Coordination and Co-**
15 **operation in the Processing of**
16 **Federal Permits for Production**
17 **of Domestic Oil and Gas Re-**
18 **sources**

19 **SEC. 141. REGULATORY CERTAINTY.**

20 (a) IN GENERAL.—The relevant regulations, guid-
21 ance, guidelines, and any other agency interpretations and
22 rules that are in effect on the day on which a Priority
23 Energy Project Developer submits an application for a
24 permit, authorization, or other agency action regarding a
25 Priority Energy Project shall remain in effect for purposes

1 of the agency's evaluation, review, or action on such appli-
 2 cation. In no event shall any regulations, guidance, guide-
 3 lines, or any other agency interpretations and rules that
 4 become effective after such day be considered applicable
 5 to or otherwise controlling with regard to an agency's eval-
 6 uation, review, or action on such application.

7 (b) WAIVER.—Upon providing written notice to an
 8 agency, a Priority Energy Project Developer may waive
 9 subsection (a) with respect to a specific permit application.
 10 In no event shall such waiver be construed as waiving sub-
 11 section (a) regarding any other permit application or any
 12 other agency action for that same Priority Energy Project.

13 **SEC. 142. REGIONAL OFFICES AND REGIONAL PERMIT CO-**
 14 **ORDINATORS.**

15 It is the sense of the Congress that—

16 (1) within 180 days after enactment of this Act,
 17 the Secretary of the Interior should establish re-
 18 gional offices in Alaska and the contiguous 48
 19 States to coordinate review of Federal permits for oil
 20 and gas projects on Federal lands onshore and on
 21 the outer Continental Shelf;

22 (2) the regional offices should be responsible for
 23 coordinating the timely completion of all permitting
 24 activities by Federal agencies, and State agencies to
 25 the maximum extent practicable, with respect to any

1 oil and gas project under a Federal lease issued pur-
2 suant to the mineral leasing laws, either onshore or
3 on the outer Continental Shelf, including oil and gas
4 projects should include oil shale projects under Fed-
5 eral oil shale leases;

6 (3) the number of regional offices should be es-
7 tablished by the Secretary, ensuring that there is an
8 adequate number of offices in each region proximate
9 to available Federal oil and gas lease tracts onshore
10 and on the outer Continental Shelf to meet the de-
11 mands for expeditious permitting in that region;

12 (4) the Secretary should designate as regional
13 offices pursuant to paragraph (3) all offices estab-
14 lished under section 365 of the Energy Policy Act of
15 2005 (42 U.S.C. 15924);

16 (5) within 90 days after the enactment of this
17 Act, the Secretary, the Secretary of Agriculture, the
18 Secretary of Commerce, the Secretary of Transpor-
19 tation, the Administrator of the Environmental Pro-
20 tection Agency, the Chief of the Corps of Engineers,
21 and the head of any other Federal agency with re-
22 sponsibilities related to permitting of Federal oil and
23 gas leases, should enter into a memorandum of un-
24 derstanding establishing respective duties and re-

1 sponsibilities for staffing the regional offices and ac-
2 complishing the objectives of this section;

3 (6) not later than 30 days after the date of
4 signing of a memorandum pursuant to subsection
5 (c), all Federal signatory agencies should assign to
6 each regional office the appropriate employees with
7 expertise in the oil and gas permitting issues relat-
8 ing to that office, including with respect to—

9 (A) consultation and preparation of bio-
10 logical opinions under section 7 of the Endan-
11 gered Species Act of 1973 (16 U.S.C. 1536);

12 (B) regulatory matters under the Clean
13 Air Act (42 U.S.C. 7401 et seq.);

14 (C) planning under the National Forest
15 Management Act of 1976 (16 U.S.C. 472a et
16 seq.);

17 (D) the preparation of analyses under the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.) (NEPA);

20 (E) the preparation of analyses and the
21 issuance of approvals as required under the
22 Coastal Zone Management Act (33 U.S.C. 1451
23 et seq.);

1 (F) authorizations pursuant to the Marine
2 Mammal Protection Act of 1972 (16 U.S.C.
3 1361 et seq.);

4 (G) the issuance of permits as may be re-
5 quired for the discharge of dredged or fill mate-
6 rial into the waters of the United States, in-
7 cluding wetlands, under section 404 of the Fed-
8 eral Water Pollution Control Act (33 U.S.C.
9 1344);

10 (H) applications for permits to drill under
11 the Mineral Leasing Act (30 U.S.C. 181 et
12 seq.);

13 (I) exploration plans and development and
14 production plans and associated permits under
15 the Outer Continental Shelf Lands Act (43
16 U.S.C. 1331 et seq.); and

17 (J) to the maximum extent practicable, for
18 purposes of this paragraph, Federal agencies
19 should give preference to employees volun-
20 teering for reassignment to the regional offices,
21 and should offer incentives to attract and retain
22 regional office employees, including retaining
23 contract employees, rotational assignments, sal-
24 ary incentives of up to 120 percent of an em-

1 employee's existing salary immediately prior to re-
2 assignment, or any combination of strategies;

3 (7) each employee assigned pursuant to para-
4 graph (6) should—

5 (A) within 90 days after the date of as-
6 signment, report to the regional office to which
7 the employee is assigned;

8 (B) be responsible for all issues relating to
9 the jurisdiction of the home office or agency of
10 the employee; and

11 (C) participate as part of the team work-
12 ing on proposed oil and gas projects, planning,
13 and environmental analyses; and

14 (8) the Secretary should appoint a Regional
15 Permit Coordinator to be located within each re-
16 gional office established pursuant to this section,
17 with full authority to act on behalf of the Secretary,
18 and consistent with the purposes of this subtitle, the
19 Regional Permit Coordinators should—

20 (A) pursue interagency coordination and
21 cooperation in the processing of permits re-
22 quired to support oil and gas use authorizations
23 on Federal lands;

1 (B) maintain or enhance high standards of
2 safety and environmental protection through
3 improved coordination;

4 (C) achieve process streamlining and in-
5 creased interagency efficiency, including elimi-
6 nation of duplication between Federal and State
7 agencies;

8 (D) seek improved information sharing and
9 use, and an improved understanding of respec-
10 tive agency mandates, roles, and responsibil-
11 ities;

12 (E) provide a more consistent approach for
13 the application of environmental science that
14 will ensure environmental protection for all
15 areas affected by outer Continental Shelf devel-
16 opment, including Alaska; and

17 (F) establish mechanisms to enhance co-
18 ordination with State agencies with expertise
19 and responsibilities related to oil and gas use
20 authorizations.

21 **SEC. 143. REVIEWS AND ACTIONS OF FEDERAL AGENCIES.**

22 (a) SCHEDULES FOR TIMELY PERMIT DECISION-
23 MAKING.—

24 (1) NOTIFICATION OF APPLICANT.—Within 10
25 days after the date on which the Secretary receives

1 any oil and gas permit application or amended appli-
2 cation, the Secretary shall either notify the applicant
3 that the application is complete or notify the appli-
4 cant that information is missing and specify the in-
5 formation that is required to be submitted for the
6 application to be complete.

7 (2) CLASSIFICATION OF PERMIT.—Within 30
8 days after notifying such a permit applicant that an
9 application is complete, the Secretary, in consulta-
10 tion with the permit applicant as necessary, shall de-
11 termine and inform the Regional Permit Coordinator
12 responsible for that project area whether the pro-
13 posed permit is a class I, class II, or class III per-
14 mit. The Regional Permit Coordinator shall as soon
15 as possible, but in no event later than 30 days fol-
16 lowing the Secretary's determination, establish a
17 binding schedule to ensure the most expeditious pos-
18 sible review and processing of the requested permit
19 in accordance with this section.

20 (b) PERMIT CLASSES AND SCHEDULES.—

21 (1) CLASS I PERMITS.—An oil and gas permit
22 shall be designated as a class I permit under this
23 section if the permitted activity is of a nature that
24 would typically require preparation of an environ-
25 mental impact statement under the National Envi-

1 ronmental Policy Act of 1969 to inform the permit-
2 ting decision. For such permits, the Regional Permit
3 Coordinator shall establish a schedule for timely
4 completion of all permit reviews and processing, not
5 to exceed 30 months. The Regional Permit Coordi-
6 nator shall make the schedule publicly available
7 within 10 days after the schedule is established.

8 (2) CLASS II PERMITS.—An oil and gas permit
9 shall be designated as a class II permit under this
10 section if the permitted activity is of a nature that
11 would typically be found not to significantly affect
12 the quality of the human environment under the Na-
13 tional Environmental Policy Act of 1969. For such
14 permits, the Regional Permit Coordinator shall es-
15 tablish the most expeditious schedule possible for
16 completion of all permit reviews and processing, not
17 to exceed 90 days. The Regional Permit Coordinator
18 may grant a one-time extension of that schedule, not
19 to exceed 60 days, upon a good cause showing that
20 additional time is necessary to complete permit deci-
21 sions. Not later than 15 days after establishing or
22 extending any schedule for a class II permit, the Re-
23 gional Permit Coordinator shall provide the permit
24 applicant with the schedule.

1 (3) CLASS III PERMITS AND CATEGORICAL EX-
2 CLUSIONS.—

3 (A) IN GENERAL.—Notwithstanding para-
4 graphs (1) and (2), an oil and gas permit shall
5 be designated as a class III permit under this
6 section if the permitted activity either qualifies
7 for a statutory or regulatory categorical exclu-
8 sion under the National Environmental Policy
9 Act of 1969 or if the requirements under the
10 National Environmental Policy Act of 1969 and
11 other applicable law for the permit have been
12 completed within 30 days after the date of a
13 complete application. For such permits, the per-
14 mit shall be issued within 30 days after the
15 date of a complete application.

16 (B) PURPOSE.—It is recognized that the
17 purpose for issuing a categorical exclusion is to
18 eliminate the need for unnecessary paperwork
19 and effort under the National Environmental
20 Policy Act of 1969 for categories of actions that
21 normally do not warrant preparation of an envi-
22 ronmental impact statement or environmental
23 assessment.

24 (C) REBUTTABLE PRESUMPTION.—In the
25 case of permits issued by the Bureau of Land

1 Management, the activities described in section
2 390 of the Energy Policy Act of 2005 (42
3 U.S.C. 15942) shall be entitled to a rebuttable
4 presumption that a categorical exclusion shall
5 apply if the activities are to be conducted pur-
6 suant to the Mineral Leasing Act (30 U.S.C.
7 181 et seq.), unless the Bureau shall have
8 found extraordinary circumstances to exist as a
9 result of a review conducted in accordance with
10 43 CFR 46.20(c), 43 CFR 46.215, and chapter
11 4 and appendix 5 of the Bureau of Land Man-
12 agement NEPA Handbook, and shall have re-
13 ported the findings of this review to the Re-
14 gional Permit Coordinator within 30 days after
15 the date of a complete application. If extraor-
16 dinary circumstances exist in relation to the ac-
17 tivities being considered, then the application
18 shall be eligible for a class I or class II permit
19 as appropriate under this section.

20 (4) RECLASSIFICATION OF CLASS II PERMIT.—

21 If prior to the expiration of the established schedule
22 for a class II permit newly discovered information
23 indicates that the class II permit will significantly
24 affect the quality of the human environment, the
25 Secretary may, in consultation with the permit appli-

1 cant, reclassify the permit as a class I permit under
2 paragraph (1), and the Regional Coordinator shall
3 establish an amended schedule that complies with
4 the provisions of that paragraph.

5 (c) DISPUTE RESOLUTION.—The Regional Permit
6 Coordinator shall resolve all administrative issues that af-
7 fect oil and gas permit reviews. The Regional Permit Coor-
8 dinator shall report to the head of the relevant action
9 agency, or his or her designee, for resolution of any issue
10 regarding an oil and gas permit that may result in missing
11 the schedule deadlines established pursuant to subsection
12 (b). The Regional Permit Coordinators shall include data
13 regarding the incidence and resolution of disputes under
14 this subsection in their reports to the Secretary.

15 (d) REMEDIES.—

16 (1) IN GENERAL.—An applicant for a class I
17 permit may bring a cause of action to seek expedited
18 mandamus review, pursuant to the procedures in
19 section 174, if a Regional Permit Coordinator or the
20 Secretary fails to—

21 (A) establish a schedule in accordance with
22 subsection (b);

23 (B) enforce and ensure completion of re-
24 views within schedule deadlines; or

1 (C) take all actions as are necessary and
2 proper to avoid jeopardizing the timely comple-
3 tion of the entire schedule.

4 (2) FAILURE TO COMPLY WITH SCHEDULE.—If
5 an agency fails to complete its review of and issue
6 a decision upon a permit within the schedule estab-
7 lished by the Court pursuant to section 174, that
8 permit shall be deemed granted to the applicant.

9 (e) PROHIBITION OF CERTAIN TERMS AND CONDI-
10 TIONS.—No Federal agency may include in any permit,
11 right-of-way, or other authorization issued for an oil and
12 gas project subject to the provisions of this subtitle, any
13 term or condition that may be authorized, but is not re-
14 quired, by the provisions of any applicable law, if such
15 term or condition would prevent or impair in any signifi-
16 cant respect completion of a permit review within the time
17 schedule established pursuant to subsection (b) or would
18 otherwise impair in any significant respect expeditious oil
19 and gas development. No Regional Permit Coordinator
20 shall have any authority to impose any terms, conditions,
21 or requirements beyond those imposed by any Federal law,
22 agency, regulation, or lease term.

23 (f) CONSOLIDATED RECORD.—The Secretary, acting
24 through the appropriate Regional Permit Coordinator,
25 with the cooperation of Federal and State administrative

1 officials and agencies, shall maintain a complete, consoli-
2 dated record of all decisions made or actions taken by the
3 Regional Permit Coordinators or by any Federal agency
4 with respect to any oil and gas permit.

5 (g) FUNDING.—The Secretary shall carry out this
6 section with amounts that are otherwise available for re-
7 lated purposes.

8 **SEC. 144. LEAD AGENCY.**

9 (a) APPLICABILITY.—The provisions of this section
10 apply pursuant to this Act only where a Priority Energy
11 Project is subject to the jurisdiction of more than one Fed-
12 eral agency or upon the election of the Priority Energy
13 Project Developer.

14 (b) LEAD AGENCY.—The Federal Energy Regulatory
15 Commission shall act as the lead agency for purposes of
16 coordinating, reviewing, or otherwise granting any permit
17 or authorization or other agency action regarding a Pri-
18 ority Energy Project pursuant to this Act.

19 (c) AUTHORITY TO SET DEADLINES.—The Federal
20 Energy Regulatory Commission, in consultation with other
21 Federal agencies and, as appropriate, with Indian tribes,
22 multi-State entities, and State agencies that are willing
23 to coordinate their own separate permitting and environ-
24 mental reviews with the lead agency, shall establish
25 prompt and binding intermediate milestones and final

1 deadlines for the granting of permits or authorizations or
2 other agency actions relating to the Priority Energy
3 Project not later than 90 days following notification by
4 a Priority Energy Project Developer that it is invoking
5 the provisions of this section for its Priority Energy
6 Project.

7 (d) REQUIREMENT TO MEET DEADLINES.—All Fed-
8 eral agencies shall meet the deadlines established under
9 subsection (c) and cooperate fully with the Federal Energy
10 Regulatory Commission in its capacity as lead agency pur-
11 suant to this Act. In the event an agency fails to act in
12 accordance with a final deadline established pursuant to
13 subsection (c) regarding a Priority Energy Project, the
14 permit or authorization or other agency action shall be
15 deemed granted and approved.

16 (e) APPEALS.—As lead agency, the Federal Energy
17 Regulatory Commission shall hear all agency appeals in
18 lieu of an affected agency regarding a Priority Energy
19 Project and in hearing such appeals is authorized to re-
20 mand, reverse, or revise any agency decision.

21 (f) CONSOLIDATED RECORD.—As lead agency, the
22 Federal Energy Regulatory Commission, in consultation
23 with other Federal agencies, shall prepare a single envi-
24 ronmental review document, which shall be used as the
25 basis for all decisions regarding the Priority Energy

1 Project under Federal law. The document may be an envi-
2 ronmental assessment or environmental impact statement
3 under the National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.), if warranted, or such other form
5 of analysis.

6 (g) RESOURCES.—All Federal agencies are required,
7 upon request of the Federal Energy Regulatory Commis-
8 sion, as lead agency, to allocate personnel and other re-
9 sources to assist it in fulfilling its obligations under this
10 section.

11 (h) RELATIONSHIP TO NEPA AND ENERGY POLICY
12 ACT OF 2005.—

13 (1) IN GENERAL.—Section 390(a) of the En-
14 ergy Policy Act of 2005 (42 U.S.C. 15942(a)) is
15 amended—

16 (A) by striking “rebuttable presumption
17 that the use of a”; and

18 (B) by striking “would apply”.

19 (2) MINERAL LEASING ACT.—Section 17(p) of
20 the Mineral Leasing Act (30 U.S.C. 226(p)) is re-
21 pealed.

22 (i) ADDITIONAL POWERS AND RESPONSIBILITIES.—

23 (1) REGIONAL PERMIT COORDINATOR RE-
24 PORTS.—The Regional Permit Coordinators shall
25 each submit a report to the Secretary by December

1 31 of each year that documents each office's per-
2 formance in meeting the objectives under this sub-
3 title, including recommendations to further stream-
4 line the permitting process.

5 (2) REDIRECTION OF PRIORITIES OR RE-
6 SOURCES.—In order to expedite overall permitting
7 activity, the Secretary may redirect the priority of
8 regional office activities or the allocation of re-
9 sources among such offices, and shall engage the
10 agencies that are parties to the memorandum of un-
11 derstanding under section 142(c) to the extent such
12 adjustments implicate their respective staffs or re-
13 sources.

14 (3) REPORT TO CONGRESS.—Beginning 3 years
15 after the date of enactment of this Act, the Sec-
16 retary shall prepare and submit a report to the
17 President and Congress by April 15 of each year
18 that outlines the results achieved under this subtitle
19 and makes recommendations to the President and
20 Congress for further improvements in processing oil
21 and gas permits on Federal lands.

22 **SEC. 145. CONGRESSIONAL REVIEW OF AGENCY RULE-**
23 **MAKING.**

24 Chapter 8 of title 5, United States Code, is amended
25 to read as follows:

1 **“CHAPTER 8—CONGRESSIONAL REVIEW**
 2 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

3 **“§ 801. Congressional review**

4 “(a)(1)(A) Before a rule may take effect, the Federal
 5 agency promulgating such rule shall submit to each House
 6 of the Congress and to the Comptroller General a report
 7 containing—

8 “(i) a copy of the rule;

9 “(ii) a concise general statement relating to the
 10 rule;

11 “(iii) a classification of the rule as a major or
 12 nonmajor rule, including an explanation of the clas-
 13 sification specifically addressing each criteria for a
 14 major rule contained within sections 804(2)(A),
 15 804(2)(B), and 804(2)(C);

16 “(iv) a list of any other related regulatory ac-
 17 tions intended to implement the same statutory pro-
 18 vision or regulatory objective as well as the indi-
 19 vidual and aggregate economic effects of those ac-
 20 tions; and

21 “(v) the proposed effective date of the rule.

1 “(B) On the date of the submission of the report
2 under subparagraph (A), the Federal agency promulgating
3 the rule shall submit to the Comptroller General and make
4 available to each House of Congress—

5 “(i) a complete copy of the cost-benefit analysis
6 of the rule, if any, including an analysis of any jobs
7 added or lost, differentiating between public and pri-
8 vate sector jobs;

9 “(ii) the agency’s actions pursuant to sections
10 603, 604, 605, 607, and 609 of this title;

11 “(iii) the agency’s actions pursuant to sections
12 202, 203, 204, and 205 of the Unfunded Mandates
13 Reform Act of 1995; and

14 “(iv) any other relevant information or require-
15 ments under any other Act and any relevant Execu-
16 tive orders.

17 “(C) Upon receipt of a report submitted under sub-
18 paragraph (A), each House shall provide copies of the re-
19 port to the chairman and ranking member of each stand-
20 ing committee with jurisdiction under the rules of the
21 House of Representatives or the Senate to report a bill
22 to amend the provision of law under which the rule is
23 issued.

24 “(2)(A) The Comptroller General shall provide a re-
25 port on each major rule to the committees of jurisdiction

1 by the end of 15 calendar days after the submission or
2 publication date as provided in section 802(b)(2). The re-
3 port of the Comptroller General shall include an assess-
4 ment of the agency's compliance with procedural steps re-
5 quired by paragraph (1)(B).

6 “(B) Federal agencies shall cooperate with the Comp-
7 troller General by providing information relevant to the
8 Comptroller General's report under subparagraph (A).

9 “(3) A major rule relating to a report submitted
10 under paragraph (1) shall take effect upon enactment of
11 a joint resolution of approval described in section 802 or
12 as provided for in the rule following enactment of a joint
13 resolution of approval described in section 802, whichever
14 is later.

15 “(4) A nonmajor rule shall take effect as provided
16 by section 803 after submission to Congress under para-
17 graph (1).

18 “(5) If a joint resolution of approval relating to a
19 major rule is not enacted within the period provided in
20 subsection (b)(2), then a joint resolution of approval relat-
21 ing to the same rule may not be considered under this
22 chapter in the same Congress by either the House of Rep-
23 resentatives or the Senate.

1 “(b)(1) A major rule shall not take effect unless the
2 Congress enacts a joint resolution of approval described
3 under section 802.

4 “(2) If a joint resolution described in subsection (a)
5 is not enacted into law by the end of 70 session days or
6 legislative days, as applicable, beginning on the date on
7 which the report referred to in section 801(a)(1)(A) is re-
8 ceived by Congress (excluding days either House of Con-
9 gress is adjourned for more than 3 days during a session
10 of Congress), then the rule described in that resolution
11 shall be deemed not to be approved and such rule shall
12 not take effect.

13 “(c)(1) Notwithstanding any other provision of this
14 section (except subject to paragraph (3)), a major rule
15 may take effect for one 90-calendar-day period if the
16 President makes a determination under paragraph (2) and
17 submits written notice of such determination to the Con-
18 gress.

19 “(2) Paragraph (1) applies to a determination made
20 by the President by Executive order that the major rule
21 should take effect because such rule is—

22 “(A) necessary because of an imminent threat
23 to health or safety or other emergency;

24 “(B) necessary for the enforcement of criminal
25 laws;

1 “(C) necessary for national security; or

2 “(D) issued pursuant to any statute imple-
3 menting an international trade agreement.

4 “(3) An exercise by the President of the authority
5 under this subsection shall have no effect on the proce-
6 dures under section 802.

7 “(d)(1) In addition to the opportunity for review oth-
8 erwise provided under this chapter, in the case of any rule
9 for which a report was submitted in accordance with sub-
10 section (a)(1)(A) during the period beginning on the date
11 occurring—

12 “(A) in the case of the Senate, 60 session days,
13 or

14 “(B) in the case of the House of Representa-
15 tives, 60 legislative days,

16 before the date the Congress is scheduled to adjourn a
17 session of Congress through the date on which the same
18 or succeeding Congress first convenes its next session, sec-
19 tions 802 and 803 shall apply to such rule in the suc-
20 ceeding session of Congress.

21 “(2)(A) In applying sections 802 and 803 for pur-
22 poses of such additional review, a rule described under
23 paragraph (1) shall be treated as though—

24 “(i) such rule were published in the Federal
25 Register on—

1 “(I) in the case of the Senate, the 15th
2 session day, or

3 “(II) in the case of the House of Rep-
4 resentatives, the 15th legislative day,
5 after the succeeding session of Congress first con-
6 venes; and

7 “(ii) a report on such rule were submitted to
8 Congress under subsection (a)(1) on such date.

9 “(B) Nothing in this paragraph shall be construed
10 to affect the requirement under subsection (a)(1) that a
11 report shall be submitted to Congress before a rule can
12 take effect.

13 “(3) A rule described under paragraph (1) shall take
14 effect as otherwise provided by law (including other sub-
15 sections of this section).

16 **“§ 802. Congressional approval procedure for major**
17 **rules**

18 “(a)(1) For purposes of this section, the term ‘joint
19 resolution’ means only a joint resolution addressing a re-
20 port classifying a rule as major pursuant to section
21 801(a)(1)(A)(iii) that—

22 “(A) bears no preamble;

23 “(B) bears the following title (with blanks filled
24 as appropriate): ‘Approving the rule submitted by
25 _____ relating to _____.’;

1 “(C) includes after its resolving clause only the
2 following (with blanks filled as appropriate): ‘That
3 Congress approves the rule submitted by _____ re-
4 lating to _____.’; and

5 “(D) is introduced pursuant to paragraph (2).

6 “(2) After a House of Congress receives a report
7 classifying a rule as major pursuant to section
8 801(a)(1)(A)(iii), the majority leader of that House (or
9 his or her respective designee) shall introduce (by request,
10 if appropriate) a joint resolution described in paragraph
11 (1)—

12 “(A) in the case of the House of Representa-
13 tives, within three legislative days; and

14 “(B) in the case of the Senate, within three ses-
15 sion days.

16 “(3) A joint resolution described in paragraph (1)
17 shall not be subject to amendment at any stage of pro-
18 ceeding.

19 “(b) A joint resolution described in subsection (a)
20 shall be referred in each House of Congress to the commit-
21 tees having jurisdiction over the provision of law under
22 which the rule is issued.

23 “(c) In the Senate, if the committee or committees
24 to which a joint resolution described in subsection (a) has
25 been referred have not reported it at the end of 15 session

1 days after its introduction, such committee or committees
2 shall be automatically discharged from further consider-
3 ation of the resolution and it shall be placed on the cal-
4 endar. A vote on final passage of the resolution shall be
5 taken on or before the close of the 15th session day after
6 the resolution is reported by the committee or committees
7 to which it was referred, or after such committee or com-
8 mittees have been discharged from further consideration
9 of the resolution.

10 “(d)(1) In the Senate, when the committee or com-
11 mittees to which a joint resolution is referred have re-
12 ported, or when a committee or committees are discharged
13 (under subsection (c)) from further consideration of a
14 joint resolution described in subsection (a), it is at any
15 time thereafter in order (even though a previous motion
16 to the same effect has been disagreed to) for a motion
17 to proceed to the consideration of the joint resolution, and
18 all points of order against the joint resolution (and against
19 consideration of the joint resolution) are waived. The mo-
20 tion is not subject to amendment, or to a motion to post-
21 pone, or to a motion to proceed to the consideration of
22 other business. A motion to reconsider the vote by which
23 the motion is agreed to or disagreed to shall not be in
24 order. If a motion to proceed to the consideration of the
25 joint resolution is agreed to, the joint resolution shall re-

1 main the unfinished business of the Senate until disposed
2 of.

3 “(2) In the Senate, debate on the joint resolution,
4 and on all debatable motions and appeals in connection
5 therewith, shall be limited to not more than 2 hours, which
6 shall be divided equally between those favoring and those
7 opposing the joint resolution. A motion to further limit
8 debate is in order and not debatable. An amendment to,
9 or a motion to postpone, or a motion to proceed to the
10 consideration of other business, or a motion to recommit
11 the joint resolution is not in order.

12 “(3) In the Senate, immediately following the conclu-
13 sion of the debate on a joint resolution described in sub-
14 section (a), and a single quorum call at the conclusion of
15 the debate if requested in accordance with the rules of the
16 Senate, the vote on final passage of the joint resolution
17 shall occur.

18 “(4) Appeals from the decisions of the Chair relating
19 to the application of the rules of the Senate to the proce-
20 dure relating to a joint resolution described in subsection
21 (a) shall be decided without debate.

22 “(e) In the House of Representatives, if any com-
23 mittee to which a joint resolution described in subsection
24 (a) has been referred has not reported it to the House
25 at the end of 15 legislative days after its introduction,

1 such committee shall be discharged from further consider-
2 ation of the joint resolution, and it shall be placed on the
3 appropriate calendar. On the second and fourth Thursdays
4 of each month it shall be in order at any time for the
5 Speaker to recognize a Member who favors passage of a
6 joint resolution that has appeared on the calendar for at
7 least 5 legislative days to call up that joint resolution for
8 immediate consideration in the House without intervention
9 of any point of order. When so called up a joint resolution
10 shall be considered as read and shall be debatable for 1
11 hour equally divided and controlled by the proponent and
12 an opponent, and the previous question shall be considered
13 as ordered to its passage without intervening motion. It
14 shall not be in order to reconsider the vote on passage.
15 If a vote on final passage of the joint resolution has not
16 been taken by the third Thursday on which the Speaker
17 may recognize a Member under this subsection, such vote
18 shall be taken on that day.

19 “(f)(1) If, before passing a joint resolution described
20 in subsection (a), one House receives from the other a
21 joint resolution having the same text, then—

22 “(A) the joint resolution of the other House
23 shall not be referred to a committee; and

24 “(B) the procedure in the receiving House shall
25 be the same as if no joint resolution had been re-

1 ceived from the other House until the vote on pas-
2 sage, when the joint resolution received from the
3 other House shall supplant the joint resolution of
4 the receiving House.

5 “(2) This subsection shall not apply to the House of
6 Representatives if the joint resolution received from the
7 Senate is a revenue measure.

8 “(g) If either House has not taken a vote on final
9 passage of the joint resolution by the last day of the period
10 described in section 801(b)(2), then such vote shall be
11 taken on that day.

12 “(h) This section and section 803 are enacted by
13 Congress—

14 “(1) as an exercise of the rulemaking power of
15 the Senate and House of Representatives, respec-
16 tively, and as such is deemed to be part of the rules
17 of each House, respectively, but applicable only with
18 respect to the procedure to be followed in that
19 House in the case of a joint resolution described in
20 subsection (a) and superseding other rules only
21 where explicitly so; and

22 “(2) with full recognition of the Constitutional
23 right of either House to change the rules (so far as
24 they relate to the procedure of that House) at any

1 time, in the same manner and to the same extent as
2 in the case of any other rule of that House.

3 **“§ 803. Congressional disapproval procedure for**
4 **nonmajor rules**

5 “(a) For purposes of this section, the term ‘joint res-
6 olution’ means only a joint resolution introduced in the
7 period beginning on the date on which the report referred
8 to in section 801(a)(1)(A) is received by Congress and
9 ending 60 days thereafter (excluding days either House
10 of Congress is adjourned for more than 3 days during a
11 session of Congress), the matter after the resolving clause
12 of which is as follows: ‘That Congress disapproves the
13 nonmajor rule submitted by the _____ relating to
14 _____, and such rule shall have no force or effect.’ (The
15 blank spaces being appropriately filled in).

16 “(b)(1) A joint resolution described in subsection (a)
17 shall be referred to the committees in each House of Con-
18 gress with jurisdiction.

19 “(2) For purposes of this section, the term submis-
20 sion or publication date means the later of the date on
21 which—

22 “(A) the Congress receives the report submitted
23 under section 801(a)(1); or

24 “(B) the nonmajor rule is published in the Fed-
25 eral Register, if so published.

1 “(c) In the Senate, if the committee to which is re-
2 ferred a joint resolution described in subsection (a) has
3 not reported such joint resolution (or an identical joint
4 resolution) at the end of 15 session days after the date
5 of introduction of the joint resolution, such committee may
6 be discharged from further consideration of such joint res-
7 olution upon a petition supported in writing by 30 Mem-
8 bers of the Senate, and such joint resolution shall be
9 placed on the calendar.

10 “(d)(1) In the Senate, when the committee to which
11 a joint resolution is referred has reported, or when a com-
12 mittee is discharged (under subsection (c)) from further
13 consideration of a joint resolution described in subsection
14 (a), it is at any time thereafter in order (even though a
15 previous motion to the same effect has been disagreed to)
16 for a motion to proceed to the consideration of the joint
17 resolution, and all points of order against the joint resolu-
18 tion (and against consideration of the joint resolution) are
19 waived. The motion is not subject to amendment, or to
20 a motion to postpone, or to a motion to proceed to the
21 consideration of other business. A motion to reconsider the
22 vote by which the motion is agreed to or disagreed to shall
23 not be in order. If a motion to proceed to the consideration
24 of the joint resolution is agreed to, the joint resolution

1 shall remain the unfinished business of the Senate until
2 disposed of.

3 “(2) In the Senate, debate on the joint resolution,
4 and on all debatable motions and appeals in connection
5 therewith, shall be limited to not more than 10 hours,
6 which shall be divided equally between those favoring and
7 those opposing the joint resolution. A motion to further
8 limit debate is in order and not debatable. An amendment
9 to, or a motion to postpone, or a motion to proceed to
10 the consideration of other business, or a motion to recom-
11 mit the joint resolution is not in order.

12 “(3) In the Senate, immediately following the conclu-
13 sion of the debate on a joint resolution described in sub-
14 section (a), and a single quorum call at the conclusion of
15 the debate if requested in accordance with the rules of the
16 Senate, the vote on final passage of the joint resolution
17 shall occur.

18 “(4) Appeals from the decisions of the Chair relating
19 to the application of the rules of the Senate to the proce-
20 dure relating to a joint resolution described in subsection
21 (a) shall be decided without debate.

22 “(e) In the Senate the procedure specified in sub-
23 section (c) or (d) shall not apply to the consideration of
24 a joint resolution respecting a nonmajor rule—

1 “(1) after the expiration of the 60 session days
 2 beginning with the applicable submission or publica-
 3 tion date, or

4 “(2) if the report under section 801(a)(1)(A)
 5 was submitted during the period referred to in sec-
 6 tion 801(d)(1), after the expiration of the 60 session
 7 days beginning on the 15th session day after the
 8 succeeding session of Congress first convenes.

9 “(f) If, before the passage by one House of a joint
 10 resolution of that House described in subsection (a), that
 11 House receives from the other House a joint resolution
 12 described in subsection (a), then the following procedures
 13 shall apply:

14 “(1) The joint resolution of the other House
 15 shall not be referred to a committee.

16 “(2) With respect to a joint resolution described
 17 in subsection (a) of the House receiving the joint
 18 resolution—

19 “(A) the procedure in that House shall be
 20 the same as if no joint resolution had been re-
 21 ceived from the other House; but

22 “(B) the vote on final passage shall be on
 23 the joint resolution of the other House.

24 **“§ 804. Definitions**

25 “For purposes of this chapter—

1 “(1) The term ‘Federal agency’ means any
2 agency as that term is defined in section 551(1).

3 “(2) The term ‘major rule’ means any rule, in-
4 cluding an interim final rule, that the Administrator
5 of the Office of Information and Regulatory Affairs
6 of the Office of Management and Budget finds has
7 resulted in or is likely to result in—

8 “(A) an annual effect on the economy of
9 \$100,000,000 or more;

10 “(B) a major increase in costs or prices for
11 consumers, individual industries, Federal,
12 State, or local government agencies, or geo-
13 graphic regions; or

14 “(C) significant adverse effects on competi-
15 tion, employment, investment, productivity, in-
16 novation, or on the ability of United States-
17 based enterprises to compete with foreign-based
18 enterprises in domestic and export markets.

19 “(3) The term ‘nonmajor rule’ means any rule
20 that is not a major rule.

21 “(4) The term ‘rule’ has the meaning given
22 such term in section 551, except that such term does
23 not include—

24 “(A) any rule of particular applicability,
25 including a rule that approves or prescribes for

1 the future rates, wages, prices, services, or al-
2 lowances therefore, corporate or financial struc-
3 tures, reorganizations, mergers, or acquisitions
4 thereof, or accounting practices or disclosures
5 bearing on any of the foregoing;

6 “(B) any rule relating to agency manage-
7 ment or personnel; or

8 “(C) any rule of agency organization, pro-
9 cedure, or practice that does not substantially
10 affect the rights or obligations of non-agency
11 parties.

12 **“§ 805. Judicial review**

13 “(a) No determination, finding, action, or omission
14 under this chapter shall be subject to judicial review.

15 “(b) Notwithstanding subsection (a), a court may de-
16 termine whether a Federal agency has completed the nec-
17 essary requirements under this chapter for a rule to take
18 effect.

19 “(c) The enactment of a joint resolution of approval
20 under section 802 shall not be interpreted to serve as a
21 grant or modification of statutory authority by Congress
22 for the promulgation of a rule, shall not extinguish or af-
23 fect any claim, whether substantive or procedural, against
24 any alleged defect in a rule, and shall not form part of
25 the record before the court in any judicial proceeding con-

cerning a rule except for purposes of determining whether
or not the rule is in effect.

“§ 806. Exemption for monetary policy

“Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

“§ 807. Effective date of certain rules

“Notwithstanding section 801—

“(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or

“(2) any rule other than a major rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.”.

**SEC. 146. STATE COORDINATION REGARDING FEDERAL OIL
AND GAS PERMITTING.**

(a) IN GENERAL.—The Secretary shall invite the Governor of any State wherein an oil and gas operation

1 may require a Federal permit, or the coastline of which
2 is in immediate geographic proximity to oil and gas oper-
3 ations on the outer Continental Shelf, to be a signatory
4 to the memorandum under section 142(c) for purposes of
5 fulfilling any State responsibilities with respect to Federal
6 oil and gas permitting decisions. The Regional Permit Co-
7 ordinators shall facilitate and coordinate concurrent State
8 reviews of requested permits for oil and gas projects on
9 the outer Continental Shelf.

10 (b) COOPERATIVE AGREEMENTS.—The Secretary
11 may enter into cooperative agreements with affected
12 States for purposes of this section, consistent with this
13 title and other applicable Federal law. Such agreements
14 may include the sharing of information, the joint utiliza-
15 tion of available expertise, the facilitating of permitting
16 procedures, joint planning and review, and the formation
17 of joint surveillance and monitoring arrangements to carry
18 out applicable Federal and State laws, regulations, and
19 stipulations relevant to oil and gas operations that may
20 be carried out pursuant to this title.

21 **SEC. 147. STATE CONSULTATION.**

22 A Federal agency with jurisdiction over a Priority
23 Energy Project may delegate to the State in which the
24 Priority Energy Project is located the Federal agency's
25 responsibilities for environmental reviews, consultations,

1 or decisions or other actions required under any Federal
2 law regarding the Priority Energy Project. After authority
3 is delegated under this section to a State it may be re-
4 voked only by an Act of Congress. The Federal agency
5 may provide financial and other forms of assistance to
6 States, multistate entities, and Indian tribes to facilitate
7 the coordination and delegation under this section.

8 **SEC. 148. SAVINGS PROVISION.**

9 Except as expressly stated, nothing in this subtitle
10 affects—

11 (1) the applicability of any Federal or State
12 law; or

13 (2) any delegation of authority made by the
14 head of a Federal agency the employees of which are
15 participating in the implementation of this subtitle.

16 **SEC. 149. REVIEW OF AGENCY PERMITTING DECISIONS.**

17 (a) ADMINISTRATIVE REVIEW.—Any oil and gas per-
18 mitting decision for Federal lands onshore or on the outer
19 Continental Shelf under this subtitle shall not be subject
20 to further administrative review within the respective Fed-
21 eral agency responsible for that decision, and shall be the
22 final decision of that agency for purposes of judicial re-
23 view.

24 (b) JUDICIAL REVIEW.—Any oil and gas permitting
25 decision for Federal lands onshore or on the outer Conti-

1 nental Shelf under this subtitle shall be subject to judicial
 2 review only in accordance with section 174.

3 **SEC. 150. DEADLINE FOR DECISION ON AGENCY APPEALS.**

4 (a) DEADLINE FOR DECISION.—Not later than 120
 5 days after the date of the filing of an appeal by a Priority
 6 Energy Project Developer, the agency shall issue a final
 7 decision.

8 (b) FAILURE TO ACT.—In the event the agency fails
 9 to meet the deadline of this section, the appeal shall be
 10 decided in favor of the Priority Energy Project Developer.

11 **Subtitle E—Prohibition on New**
 12 **Wilderness or Wilderness Study**
 13 **Areas on Lands Administered by**
 14 **the BLM Without Congressional**
 15 **Approval; Indian Land Develop-**
 16 **ment**

17 **SEC. 161. REPEAL OF EXECUTIVE ORDER.**

18 The Bureau of Land Management shall not imple-
 19 ment, administer, or enforce Secretarial Order No. 3310,
 20 issued by the Secretary of the Interior on December 22,
 21 2010, except by Congressional approval.

22 **SEC. 162. WILDERNESS DESIGNATION PROCEDURES.**

23 (a) PRECONDITION TO DESIGNATION.—The Sec-
 24 retary of the Interior may not designate or issue a rec-
 25 ommendation to designate a wilderness or wilderness

1 study area as “Wild Lands”, “Wilderness”, or any other
2 protective designation on lands administered by the Bu-
3 reau of Land Management before the last day of the 30-
4 day period beginning on the date on which the Secretary
5 provides a description and map of the land proposed to
6 be so designated to Congress and to the Governor of each
7 State with jurisdiction over parcels of land located within
8 the boundaries of the area proposed to be designated.

9 (b) PUBLIC PARTICIPATION.—

10 (1) PUBLIC HEARING REQUIREMENT.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (D), not later than 90 days after the
13 date on which the Secretary of Interior issues
14 a recommendation under subsection (a), the
15 Secretary shall hold not fewer than one public
16 hearing within a county (or comparable unit of
17 local government) located wholly or in part
18 within the boundaries of the proposed wilder-
19 ness or wilderness study area. The Secretary
20 shall ensure that all interested individuals are
21 afforded an opportunity to participate in a
22 hearing held under this paragraph.

23 (B) COMMENTS.—The Secretary of the In-
24 terior shall solicit comments from the public at
25 a hearing held under subparagraph (A), and

1 shall enter all comments received at or related
2 to such hearing into the record of the hearing.

3 (C) AVAILABILITY OF RECORD.—The Sec-
4 retary of the Interior shall promptly make the
5 record of a hearing held under subparagraph
6 (A), including a transcript of the hearing, avail-
7 able to the public on the Internet or by other
8 electronic means. The Secretary shall ensure
9 that any components of the record that are
10 completed before the entire record is finalized
11 are made available upon their completion.

12 (D) WAIVER.—The Secretary of the Inte-
13 rior may decline to hold a public hearing under
14 subparagraph (A) if each unit of local govern-
15 ment located wholly or in part within the
16 boundaries of the national monument expressly
17 waives the right to such hearing.

18 (2) NOTICE AND COMMENT PERIOD REQUIRE-
19 MENT.—Not later than 30 days after the date on
20 which Secretary of Interior issues a recommendation
21 under subsection (a), the Secretary shall initiate a
22 notice and comment period to receive comments
23 from the public regarding the recommendation.

24 (3) REPORT.—

1 (A) CONTENTS.—Not later than one year
2 after issuing a recommendation to designate a
3 wilderness or wilderness study area under sub-
4 section (a), the Secretary shall submit to Con-
5 gress a report containing the following:

6 (i) An analysis of the economic impact
7 of the designation on the communities
8 within 100 miles of the boundaries of the
9 proposed wilderness or wilderness study
10 area, including an estimate of the tax reve-
11 nues that will be lost to, or gained for, the
12 Federal, State, and local governments as a
13 result of the designation.

14 (ii) An analysis of the impact the des-
15 ignation will have on the Nation's energy
16 security, including the effects of the loss of
17 sites to produce wind, geothermal, or solar
18 energy, and the number of barrels of oil,
19 tons of coal, or cubic feet of natural gas
20 that will become unavailable as a result of
21 the designation.

22 (iii) The projected impact of the des-
23 ignation on interests, rights, and uses as-
24 sociated with the parcels of land within the
25 boundaries of the monument, including

1 water rights, hunting, recreational shoot-
2 ing, grazing, timber production, vegetation
3 manipulation to maintain forest health,
4 off-road vehicle use, hiking, horseback
5 riding, and mineral and energy leases,
6 claims, and permits.

7 (iv) The record of any hearings held
8 under paragraph (1).

9 (v) Any written comments received
10 during the notice and comment period con-
11 ducted under paragraph (2).

12 (B) PUBLICATION.—The Secretary of Inte-
13 rior shall ensure that—

14 (i) a report submitted to Congress
15 under subparagraph (A) is published on
16 the Department of Interior Web site upon
17 completion; and

18 (ii) any components of the report that
19 are completed before the entire report is fi-
20 nalized and submitted to Congress are
21 published on the Department of Interior
22 Web site upon their completion.

23 (4) IMPLEMENTATION GUIDELINES.—The Sec-
24 retary of the Interior, in cooperation with the States,

1 shall develop and publish guidelines to provide for
2 the implementation of subsection.

3 (c) CONGRESSIONAL APPROVAL OF DESIGNATION.—

4 (1) APPROVAL REQUIRED.—A designation
5 issued under subsection (a) shall cease to be effective
6 following the last day of the 2-year period beginning
7 on the date on which the Secretary of Interior
8 issued the designation, unless the report is approved
9 by an Act of Congress on or before that last day.

10 (2) MANAGEMENT OF LAND BEFORE APPROVAL.—During the period between the issuance of
11 the report described in subsection (b)(3) and congressional approval described above, the Secretary of
12 Interior shall ensure that any restriction placed on
13 land and interests, rights, or uses associated with
14 the parcels of land designated as a national monument,
15 including water rights, hunting, recreational
16 shooting, grazing, timber production, vegetation manipulation
17 to maintain forest health, off-road vehicle
18 use, hiking, horseback riding, and mineral and energy
19 leases, claims, and permits, is narrowly tailored
20 and essential to the proper care and management of
21 the objects to be protected.

22 (3) EFFECT OF NONAPPROVAL.—If Congress
23 does not approve the report, any reservation of land
24
25

1 made by the report, and any restriction imposed as
2 a result of the report on interests, rights, or uses as-
3 sociated with the parcels of land, shall cease to be
4 effective following the last day of the 2-year period
5 referred to in paragraph (1).

6 **SEC. 163. FUTURE EXECUTIVE BRANCH ACTIONS.**

7 (a) EFFECTIVENESS.—Upon enactment of this Act,
8 no executive branch action that withdraws more than 100
9 acres, in the aggregate, of public lands within the United
10 States pursuant to the Antiquities Act of 1906 (16 U.S.C.
11 431 et seq.) or any other relevant authority shall be effec-
12 tive except by compliance with this section. The provisions
13 of this subsection shall apply to executive branch actions
14 that withdraw less than 100 acres of public land where
15 such withdrawals are located within 100 miles of any other
16 withdrawal of public lands.

17 (b) WITHDRAWAL.—To the extent authorized by ex-
18 isting law, the President or the relevant head of an agency
19 may withdraw public lands in the United States provided
20 that such withdrawal shall not be effective until notice is
21 provided in the Federal Register and to the House of Rep-
22 resentatives and the Senate. Such withdrawal shall termi-
23 nate unless approved by a Federal statute not later than
24 one year after the notice of such withdrawal has been sub-
25 mitted to Congress.

1 (c) LIMITATION.—If Congress fails to pass an Act ap-
2 proving a withdrawal under subsection (b), the President
3 or the relevant head of an agency shall be prohibited from
4 withdrawing such land or a similar area of public lands
5 until at least 5 years after the end of the time period de-
6 scribed in subsection (b).

7 **SEC. 164. LEASES FOR DEVELOPMENT OF NATURAL RE-**
8 **SOURCES ON INDIAN LANDS.**

9 Subsection (a) of the first section of the Act to au-
10 thorize the leasing of restricted Indian lands for public,
11 religious, educational, recreational, residential, business,
12 and other purposes requiring the grant of long-term leases
13 (25 U.S.C. 415(a); commonly known as the “Long-term
14 Leasing Act”) is amended by striking “including the de-
15 velopment or utilization of natural resources in connection
16 with operations under such leases” and inserting “except
17 leases for the development or utilization of natural re-
18 sources and leases in connection with operations under
19 such leases, neither of which shall require Secretarial ap-
20 proval under this section,”.

1 **Subtitle F—Legal Causes and**
2 **Claims Pertaining to the Leas-**
3 **ing and Development of Federal**
4 **Lands for Exploration and Pro-**
5 **duction of Oil, Natural Gas, As-**
6 **sociated Hydrocarbons, and Oil**
7 **Shale**

8 **SEC. 171. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC**
9 **UNCONVENTIONAL FUELS.**

10 (a) JURISDICTION.—Upon enactment of this Act, the
11 Federal Energy Regulatory Commission, in lieu of the De-
12 partment of the Interior, shall be granted exclusive juris-
13 diction and all relevant authority to implement and admin-
14 ister the leasing program for research and development
15 of oil shale and tar sands and all other programs and re-
16 quirements contained in section 369 of the Energy Policy
17 Act of 2005 (Public Law 109–58; 42 U.S.C. 15927).

18 (b) REGULATIONS.—Upon enactment of this Act and
19 pursuant to paragraph (1), the Federal Energy Regu-
20 latory Commission shall immediately stay all regulations
21 and guidelines promulgated by the Department of the In-
22 terior or any other agency under section 369 of the En-
23 ergy Policy Act of 2005 and, notwithstanding any other
24 law, publish proposed rules in the Federal Register not
25 later than 6 months following enactment of this Act that

1 fully implement as expeditiously as practicable the provi-
2 sions of such section 369. The Federal Energy Regulatory
3 Commission shall publish final rules not later than 18
4 months following enactment of this Act.

5 (c) RESOURCES.—The Federal Energy Regulatory
6 Commission is authorized to request from the Department
7 of the Interior and the Department of Energy any re-
8 sources and personnel that it deems necessary to imple-
9 ment and administer the provisions of this subsection, and
10 the Department of the Interior and the Department of En-
11 ergy are required to provide such resources and personnel
12 as requested.

13 **SEC. 172. ENERGY PRODUCTION ON FEDERAL LANDS.**

14 (a) REQUIREMENT.—The Secretary of the Interior is
15 directed to take sufficient actions to ensure that by Janu-
16 ary 1, 2018, not less than 10 percent of the Federal outer
17 Continental Shelf lands and not less than 10 percent of
18 onshore Federal lands and interests in lands that are
19 under the Secretary's jurisdiction are being leased for the
20 production of energy.

21 (b) AUTHORIZATION.—The Secretary of the Interior
22 shall utilize all available authority pursuant to this Act
23 and any other Federal law, as applicable, to comply with
24 the requirement in subsection (a).

1 **SEC. 173. JURISDICTION.**

2 (a) **EXCLUSIVE JURISDICTION.**—Notwithstanding
3 any other provision of law, including section 23(c)(2) of
4 the Outer Continental Shelf Lands Act (43 U.S.C.
5 1349(c)(2)), any final agency decision concerning any cov-
6 ered oil and natural gas activity shall be subject to judicial
7 review only in the United States District Court for the
8 District of Columbia.

9 (b) **FINALITY OF LEASING DECISIONS.**—Notwith-
10 standing the provisions of any law or regulation to the
11 contrary, a decision by the Bureau of Land Management
12 or the Minerals Management Service to issue a Final No-
13 tice of Sale and proceed with an oil and gas lease sale
14 pursuant to any authorizing leasing statute shall not be
15 subject to further administrative review within the Depart-
16 ment of the Interior, and shall be the final decision of the
17 agency for purposes of judicial review.

18 (c) **EXPEDITED REVIEW.**—Section 390 of the Energy
19 Policy Act of 2005 (42 U.S.C. 15942) is amended—

20 (1) by striking “be subject to a rebuttable pre-
21 sumption that the use of” and inserting “apply”;
22 and

23 (2) by striking “would apply”.

24 **SEC. 174. JUDICIAL REVIEW.**

25 (a) **IN GENERAL.**—

1 (1) EXCLUSIVE JURISDICTION.—The United
2 States Court of Appeals for the circuit in which a
3 Priority Energy Project is proposed to be con-
4 structed, expanded, or operated shall have original
5 and exclusive jurisdiction over the review of an order
6 or action of a Federal agency or State administra-
7 tive agency acting pursuant to Federal law to issue,
8 condition, or deny any permit, license, concurrence,
9 or approval (hereinafter in this section collectively
10 referred to as a “permit”) required under Federal
11 law.

12 (2) AGENCY DELAY.—The United States Court
13 of Appeals for the District of Columbia shall have
14 original and exclusive jurisdiction over the review of
15 an alleged failure to act by a Federal agency or
16 State administrative agency acting pursuant to Fed-
17 eral law to issue, condition, or deny any permit re-
18 quired under Federal law for a Priority Energy
19 Project.

20 (3) COURT ACTION.—

21 (A) IN GENERAL.—The Court shall act as
22 expeditiously as possible for all appeals under
23 this section.

24 (B) REMAND.—If a Court finds that such
25 order or action is inconsistent with the Federal

1 law governing such permit and would prevent
2 the construction, expansion, or operation of the
3 Priority Energy Project, the Court shall re-
4 mand the proceeding to the agency to take ap-
5 propriate action consistent with the order of the
6 Court. If the Court remands the order or action
7 to a Federal or State agency, the Court shall
8 set as expeditious a schedule and deadline as
9 possible for the agency to act on remand, and
10 in any event shall allow not more than 90 days
11 for agency action on remand.

12 (C) ATTORNEY'S FEES AND OTHER EX-
13 PENSES.—Attorney's fees and other expenses of
14 litigation shall be awarded to the prevailing
15 party in actions challenging an agency action
16 granting a permit for or otherwise authorizing
17 a Priority Energy Project, but in no event shall
18 a Priority Energy Project Developer be required
19 to pay attorney's fees and other expenses of liti-
20 gation to a prevailing party.

21 (4) APPEALS.—Appeals brought pursuant to
22 this section may only be filed within 30 days of a
23 final agency action regarding a permit.

24 (b) CITIZEN SUITS.—

1 (1) STANDING.—In any suit involving a Priority
2 Energy Project brought under a citizen suit provi-
3 sion under a Federal law, any fact material to the
4 standing of the party bringing the suit that is in dis-
5 pute shall be adjudicated by the Court prior to the
6 adjudication of any other issue relating to the merits
7 of the suit.

8 (2) PRESERVATION OF AGENCY DISCRETION.—

9 (A) NOTICE OF CITIZEN SUIT RE-
10 QUIRED.—A party seeking to file a citizen suit
11 pursuant to a Federal law involving a Priority
12 Energy Project shall first notify in writing the
13 relevant agency and the Priority Energy Project
14 Developer of its intent to file a citizen suit, the
15 claims it intends to bring, and all relevant stat-
16 utory and regulatory provisions.

17 (B) DETERMINATION REQUIRED.—

18 (i) IN GENERAL.—Not later than 60
19 days following receipt of such notice, the
20 agency shall exercise discretion in deter-
21 mining whether enforcement of the claims
22 described in such notice are an appropriate
23 use of agency resources.

24 (ii) DISMISSAL REQUIRED.—If the
25 agency determines such claims are not an

1 appropriate use of agency resources, the
2 citizen suit shall be not be considered au-
3 thorized under relevant Federal law and if
4 filed shall be immediately dismissed by the
5 Court.

6 (iii) AGENCY RESPONSE REQUIRED.—

7 If the agency determines such claims are
8 an appropriate use of agency resources, the
9 agency shall have a period of 24 months to
10 act in response to such claims, including
11 by bringing an enforcement action or by
12 consulting with the Priority Energy
13 Project Developer, before the citizen suit
14 shall be considered authorized under rel-
15 evant Federal law. Upon the request of the
16 Priority Energy Project Developer, the
17 agency must allow for an additional 24
18 months to act in response to such claims.

19 (C) CITIZEN SUIT AUTHORIZED.—After
20 the 24 month period, or 48 month period, as
21 applicable, described in subparagraph (B)(iii)
22 has expired, if the agency publishes a notice in
23 the Federal Register expressly stating that it
24 declines to address the claims described by the
25 party seeking to file a citizen suit as described

1 pursuant to subparagraph (A), then such party
2 is authorized to file a citizen suit under relevant
3 Federal law. The agency is prohibited from
4 publishing such notice if the Priority Energy
5 Project Developer has consulted with the agen-
6 cy and taken remedial action regarding the
7 claims contained in the notice described in
8 paragraph (A).

9 (D) ATTORNEYS FEES AND EXPENSES.—

10 In a citizen suit filed pursuant a Federal law
11 that involves a Priority Energy Project, a Pri-
12 ority Energy Project Developer shall not be re-
13 quired to pay attorneys fees and expenses to a
14 prevailing party.

15 (3) SETTLEMENTS.—Notwithstanding any
16 other provision of law, no Federal agency shall enter
17 into a settlement agreement arising from a citizen
18 suit subject to this subsection that would require the
19 reallocation of agency resources that had been pre-
20 viously allocated by law or regulation.

21 **SEC. 175. TIME FOR FILING PETITION FOR JUDICIAL RE-**
22 **VIEW; STANDING, FILING OF RECORD.**

23 (a) DEADLINE.—All petitions for judicial review of
24 covered oil and natural gas activities must be filed within

1 45 days of the final agency decision or the challenge shall
2 be barred.

3 (b) STANDING.—Only persons whose legal rights will
4 be directly and adversely affected by the challenged action,
5 and who are within the zone of interest protected by each
6 Act under which the challenge is brought, shall have
7 standing to file any petition for judicial review of covered
8 oil and natural gas activities.

9 (c) LIMITATION.—Nothing in this section creates a
10 right to judicial review or places any limit on filing a claim
11 that a person has violated the terms of a permit, license,
12 or approval.

13 (d) CONSOLIDATED RECORD.—When any civil action
14 is brought concerning any covered oil and natural gas ac-
15 tivity, the Federal agencies involved shall immediately pre-
16 pare for the court the consolidated record compiled for the
17 challenged decision.

18 (e) COMPLETION OF REVIEW.—The court shall com-
19 plete all judicial review, including rendering a judgment,
20 before the end of the 210-day period beginning on the date
21 on which a petition is filed that is subject to this subtitle,
22 unless all parties to such proceeding agree to an extension
23 of such period.

24 (f) EXPEDITED MANDAMUS REVIEW.—Notwith-
25 standing subsection (e), within 30 days after the filing of

1 an action that is subject to this subtitle, the court shall
2 issue a decision either compelling permit issuance or es-
3 tablishing a schedule that enables the most expeditious
4 possible completion of proceedings. The court may issue
5 orders to enforce any schedule it establishes under this
6 subsection.

7 (g) NO PRIVATE RIGHT OF ACTION.—Except as ex-
8 pressly provided in this section, this subtitle shall not be
9 construed to create any additional right, benefit, or trust
10 responsibility, substantive or procedural, enforceable at
11 law or equity, by a person against the United States, its
12 agencies, its officers, or any person.

13 **SEC. 176. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

14 (a) PROSPECTIVE RELIEF.—In any proceeding for
15 judicial review that is subject to this subtitle, the court
16 shall not grant or approve any prospective relief unless
17 the court finds that such relief is narrowly drawn, extends
18 no further than necessary to correct the violation of a Fed-
19 eral law requirement, and is the least intrusive means nec-
20 essary to correct the violation.

21 (b) EFFECTIVENESS OF AGENCY DECISION PENDING
22 JUDICIAL REVIEW.—Final agency decisions relating to
23 covered oil and natural gas activities shall be effective
24 pending any judicial review of such decisions unless the
25 Court issues an order staying the effect of the decision.

1 **SEC. 177. EXCLUSION.**

2 This subtitle shall not apply to disputes between the
3 parties to a lease issued pursuant to an authorizing leas-
4 ing statute regarding the obligations of such lease or the
5 alleged breach thereof.

6 **Subtitle G—Development of Solar**
7 **and Wind Energy on Public Land**

8 **SEC. 181. DEFINITIONS.**

9 In this subtitle:

10 (1) COVERED LAND.—The term “covered land”
11 means land that is—

12 (A)(i) public land administered by the Sec-
13 retary; or

14 (ii) National Forest System land adminis-
15 tered by the Secretary of Agriculture; and

16 (B) not excluded from the development of
17 solar or wind energy under—

18 (i) a land use plan established under
19 the Federal Land Policy and Management
20 Act of 1976 (43 U.S.C. 1701 et seq.);

21 (ii) a land use plan established under
22 the National Forest Management Act of
23 1976 (16 U.S.C. 1600 et seq.); or

24 (iii) other law.

1 (2) PILOT PROGRAM.—The term “pilot pro-
2 gram” means the wind and solar leasing pilot pro-
3 gram established under section 183(a).

4 (3) PUBLIC LAND.—The term “public land”
5 has the meaning given the term “public lands” in
6 section 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702).

8 (4) SECRETARIES.—The term “Secretaries”
9 means—

10 (A) in the case of public land administered
11 by the Secretary, the Secretary; and

12 (B) in the case of National Forest System
13 land administered by the Secretary of Agri-
14 culture, the Secretary of Agriculture.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 **SEC. 182. PROGRAMMATIC ENVIRONMENTAL IMPACT**
18 **STATEMENTS AND LAND USE PLANNING.**

19 (a) PUBLIC LAND.—Not later than 1 year after the
20 date of enactment of this Act, the Secretary shall—

21 (1) complete and finalize the Programmatic En-
22 vironmental Impact Statement for Solar Energy De-
23 velopment in Six Southwestern States (BLM/DES
24 10–59; DOE/EIS–0403) in accordance with the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.
2 4321 et seq.) to analyze the potential impacts of—

3 (A) a program to develop solar energy on
4 land administered by the Secretary, acting
5 through the Bureau of Land Management; and

6 (B) any necessary amendments to land use
7 plans for the land; and

8 (2) amend any land use plans as appropriate to
9 provide for the development of energy resources in
10 areas considered appropriate by the Secretary.

11 (b) NATIONAL FOREST SYSTEM LAND.—As soon as
12 practicable but not later than 2 years after the date of
13 enactment of this Act, the Secretary of Agriculture shall—

14 (1) prepare and publish in the Federal Register
15 a notice of intent to prepare a programmatic envi-
16 ronmental impact statement in accordance with the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) to analyze the potential im-
19 pacts of—

20 (A) a program to develop solar and wind
21 energy on National Forest System land admin-
22 istered by the Secretary of Agriculture; and

23 (B) any necessary amendments to land use
24 plans for the land; and

1 (2) amend any land use plans as appropriate to
2 provide for the development of energy resources in
3 areas considered appropriate by the Secretary of Ag-
4 riculture immediately on completion of the pro-
5 grammatic environmental impact statement.

6 (c) EFFECT ON PROCESSING APPLICATIONS.—The
7 requirement for completion of programmatic environ-
8 mental impact statements under this section shall not re-
9 sult in any delay in processing or approving applications
10 for wind or solar development on public land administered
11 by the Secretary or on National Forest System land.

12 (d) MILITARY INSTALLATIONS.—

13 (1) REPORT.—

14 (A) IN GENERAL.—Not later than 2 years
15 after the date of enactment of this Act, the Sec-
16 retary of Defense, in consultation with the Sec-
17 retary of the Interior, shall conduct a study,
18 and prepare a report, that—

19 (i) identifies locations on land with-
20 drawn from the public domain and re-
21 served for military purposes that—

22 (I) exhibit a high potential for
23 solar, wind, geothermal, or other en-
24 ergy resources production;

1 (II) are disturbed or otherwise
2 have comparatively low value for other
3 resources; and

4 (III) could be developed for en-
5 ergy production in a manner con-
6 sistent with all present and reasonably
7 foreseeable military training and oper-
8 ational missions and research, devel-
9 opment, testing, and evaluation re-
10 quirements; and

11 (ii) describes the administration of
12 public land withdrawn for military pur-
13 poses for the development of commercial-
14 scale energy projects, including the legal
15 authorities governing authorization for
16 that use.

17 (B) RECOMMENDATIONS.—The report
18 shall include recommendations on—

19 (i) necessary changes in any law (in-
20 cluding regulations);

21 (ii) whether the authorization for the
22 use of the land for development of energy
23 projects should be pursuant to lease, con-
24 tract, right-of-way, permit, or other form
25 of authorization;

1 (iii) methods of improving coordina-
2 tion among the Federal, State, and local
3 agencies, if any, involved in authorizing the
4 projects; and

5 (iv) disposition of revenues resulting
6 from the development of energy projects on
7 the land.

8 (2) ENVIRONMENTAL IMPACT ANALYSIS.—Not
9 later than 1 year after the completion of the study
10 required by paragraph (1), the Secretary of Defense,
11 in consultation with the Secretary of the Interior,
12 shall prepare and publish in the Federal Register a
13 notice of intent to prepare an environmental impact
14 analysis document to support a program to develop
15 energy resources on withdrawn military land identi-
16 fied in the study as suitable for the production.

17 (3) REPORTS.—On completion of the report,
18 the Secretary and the Secretary of Defense shall
19 jointly submit the report required by paragraph (1)
20 to—

21 (A) the Committee on Armed Services of
22 the Senate;

23 (B) the Committee on Energy and Natural
24 Resources of the Senate;

1 (C) the Committee on Armed Services of
2 the House of Representatives; and

3 (D) the Committee on Natural Resources
4 of the House of Representatives.

5 **SEC. 183. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**
6 **PUBLIC LAND.**

7 (a) PILOT PROGRAM.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of enactment of this Act, the Sec-
10 retary shall establish a wind and solar leasing pilot
11 program on covered land administered by the Sec-
12 retary.

13 (2) SELECTION OF SITES.—

14 (A) IN GENERAL.—Not later than 90 days
15 after the date the pilot program is established
16 under this subsection, the Secretary shall (tak-
17 ing into consideration the multiple resource val-
18 ues of the land) select 2 sites that are appro-
19 priate for the development of a solar energy
20 project, and 2 sites that are appropriate for the
21 development of a wind energy project, on cov-
22 ered land administered by the Secretary as part
23 of the pilot program.

1 (B) SITE SELECTION.—In carrying out
2 subparagraph (A), the Secretary shall seek to
3 select sites—

4 (i) for which there is likely to be a
5 high level of industry interest;

6 (ii) that have a comparatively low
7 value for other resources; and

8 (iii) that are representative of sites on
9 which solar or wind energy is likely to be
10 developed on covered land.

11 (C) INELIGIBLE SITES.—The Secretary
12 shall not select as part of the pilot program any
13 site for which a right-of way for site testing or
14 construction has been issued.

15 (3) QUALIFICATIONS.—Prior to any lease sale,
16 the Secretary shall establish qualifications for bid-
17 ders that ensure bidders—

18 (A) are able to expeditiously develop a
19 wind or solar energy project on the site for
20 lease;

21 (B) possess—

22 (i) financial resources necessary to
23 complete a project;

24 (ii) knowledge of the applicable tech-
25 nology; and

1 (iii) such other qualifications as are
2 determined appropriate by the Secretary;
3 and

4 (C) meet the eligibility requirements for
5 leasing under the first section of the Mineral
6 Leasing Act (30 U.S.C. 181).

7 (4) LEASE SALES.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (D)(ii), not later than 180 days
10 after the date sites are selected under para-
11 graph (2), the Secretary shall offer each site for
12 competitive leasing to qualified bidders under
13 such terms and conditions as are required by
14 the Secretary.

15 (B) BIDDING SYSTEMS.—

16 (i) IN GENERAL.—In offering the sites
17 for lease, the Secretary may vary the bid-
18 ding systems to be used at each lease sale,
19 including—

20 (I) cash bonus bids with a re-
21 quirement for payment of the royalty
22 established under this Act;

23 (II) variable royalty bids based
24 on a percentage of the gross proceeds
25 from the sale of electricity produced

1 from the lease, except that the royalty
2 shall not be less than the royalty re-
3 quired under this Act, together with a
4 fixed cash bonus; and

5 (III) such other bidding system
6 as ensures a fair return to the public
7 consistent with the royalty established
8 under this Act.

9 (ii) ROUND.—The Secretary shall
10 limit bidding to 1 round in any lease sale.

11 (iii) EXPENDITURES.—In any case in
12 which the land that is subject to lease has
13 1 or more pending applications for the de-
14 velopment of wind or solar energy at the
15 time of the lease sale, the Secretary shall
16 give credit toward any bid submitted by
17 the applicant for expenditures of the appli-
18 cant considered by the Secretary to be
19 qualified and necessary for the preparation
20 of the application.

21 (C) REVENUES.—Bonus bids, royalties,
22 rentals, fees, or other payments collected by the
23 Secretary under this section shall be subject to
24 section 184.

25 (D) LEASE TERMS.—

1 (i) IN GENERAL.—As part of the pilot
2 program, the Secretary may vary the
3 length of the lease terms and establish
4 such other lease terms and conditions as
5 the Secretary considers appropriate.

6 (ii) DATA COLLECTION.—As part of
7 the pilot program, the Secretary shall—

8 (I) offer on a noncompetitive
9 basis on at least 1 site a short-term
10 lease for data collection; and

11 (II) on the expiration of the
12 short-term lease, offer on a competi-
13 tive basis a long-term lease, giving
14 credit toward the bonus bid to the
15 holder of the short-term lease for any
16 qualified expenditures to collect data
17 to develop the site during the short-
18 term lease.

19 (5) COMPLIANCE WITH LAWS.—In offering for
20 lease the selected sites under paragraph (4), the Sec-
21 retary shall comply with all applicable environmental
22 and other laws.

23 (6) REPORT.—The Secretary shall—

24 (A) compile a report of the results of each
25 lease sale under the pilot program, including—

- 1 (i) the level of competitive interest;
- 2 (ii) a summary of bids and revenues
- 3 received; and
- 4 (iii) any other factors that may have
- 5 impacted the lease sale process; and
- 6 (B) not later than 90 days after the final
- 7 lease sale, submit to the Committee on Energy
- 8 and Natural Resources of the Senate and the
- 9 Committee on Natural Resources of the House
- 10 of Representatives the report described in sub-
- 11 paragraph (A).

12 (7) RIGHTS-OF-WAY.—During the pendency of
13 the pilot program, the Secretary shall continue to
14 issue rights-of-way, in compliance with authority in
15 effect on the date of enactment of this Act, for avail-
16 able sites not selected for the pilot program.

17 (b) SECRETARIAL DETERMINATION.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretaries
20 shall make a joint determination on whether to es-
21 tablish a leasing program under this section for wind
22 or solar energy, or both, on all covered land.

23 (2) SYSTEM.—If the Secretaries determine that
24 a leasing program should be established, the pro-
25 gram shall apply to all covered land in accordance

1 with this Act and other provisions of law applicable
2 to public land or National Forest System land.

3 (3) ESTABLISHMENT.—The Secretaries shall
4 establish a leasing program unless the Secretaries
5 determine that the program—

6 (A) is not in the public interest; and

7 (B) does not provide an effective means of
8 developing wind or solar energy.

9 (4) CONSULTATION.—In making the determina-
10 tions required under this subsection, the Secretaries
11 shall consult with—

12 (A) the heads of other relevant Federal
13 agencies;

14 (B) interested States, Indian tribes, and
15 local governments;

16 (C) representatives of the solar and wind
17 industries;

18 (D) representatives of the environment,
19 conservation, and outdoor sporting commu-
20 nities;

21 (E) other users of the covered land; and

22 (F) the public.

23 (5) CONSIDERATIONS.—In making the deter-
24 minations required under this subsection, the Secre-
25 taries shall consider the results of the pilot program.

1 (6) REGULATIONS.—Not later than 1 year after
2 the date on which any determination is made to es-
3 tablish a leasing program, the Secretaries shall joint-
4 ly promulgate final regulations to implement the
5 program.

6 (7) REPORT.—If the Secretaries determine that
7 a leasing program should not be established, not
8 later than 60 days after the date of the determina-
9 tion, the Secretaries shall jointly submit to the Com-
10 mittee on Energy and Natural Resources of the Sen-
11 ate and the Committee on Natural Resources of the
12 House of Representatives a report describing the
13 basis and findings for the determination.

14 (c) TRANSITION.—

15 (1) IN GENERAL.—If the Secretaries determine
16 under subsection (b) that a leasing program should
17 be established for covered land, until the program is
18 established and final regulations for the program are
19 issued—

20 (A) the Secretary shall continue to accept
21 applications for rights-of-way on covered land,
22 and provide for the issuance of rights-of-way on
23 covered land within the jurisdiction of the Sec-
24 retary for the development of wind or solar en-
25 ergy pursuant to each requirement described in

1 title V of the Federal Land Policy and Manage-
2 ment Act of 1976 (43 U.S.C. 1761 et seq.) and
3 other applicable law; and

4 (B) the Secretary of Agriculture shall con-
5 tinue to accept applications for authorizations,
6 and provide for the issuance of the authoriza-
7 tions, for the development of wind or solar en-
8 ergy on covered land within the jurisdiction of
9 the Secretary pursuant to applicable law.

10 (2) EXISTING RIGHTS-OF-WAY AND AUTHORIZA-
11 TIONS.—

12 (A) IN GENERAL.—Effective beginning on
13 the date on which the wind or solar leasing pro-
14 grams are established and final regulations are
15 issued, the Secretaries shall not renew an exist-
16 ing right-of-way or other authorization for wind
17 or solar energy development at the end of the
18 term of the right-of-way or authorization.

19 (B) LEASE.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), at the end of the term of the right-of-
22 way or other authorization for the wind or
23 solar energy project, the Secretary or, in
24 the case of National Forest System land,
25 the Secretary of Agriculture, shall grant,

1 without a competitive process, a lease to
2 the holder of the right-of-way or other au-
3 thorization for the same covered land as
4 was authorized under the right-of-way or
5 other authorization if (as determined by
6 the Secretary concerned)—

7 (I) the holder of the right-of-way
8 or other authorization has met the re-
9 quirements of diligent development;
10 and

11 (II) issuance of the lease is in the
12 public interest and consistent with ap-
13 plicable law.

14 (ii) TERMS AND CONDITIONS.—Any
15 lease described in clause (i) shall be sub-
16 ject to—

17 (I) terms and conditions that are
18 consistent with this Act and the regu-
19 lations issued under this Act; and

20 (II) the regulations in effect on
21 the date of renewal and any other
22 terms and conditions that the Sec-
23 retary considers necessary to protect
24 the public interest.

1 (3) PENDING RIGHTS-OF-WAY.—Effective begin-
2 ning on the date on which the wind or solar leasing
3 programs are established and final regulations for
4 the programs are issued, the Secretary or, with re-
5 spect to National Forest System land, the Secretary
6 of Agriculture shall provide any applicant that has
7 filed a plan of development for a right-of-way or, in
8 the case of National Forest System land, for an ap-
9 plicable authorization, for a wind or solar energy
10 project with an option to acquire a lease on a non-
11 competitive basis, under such terms and conditions
12 as are required by this Act, applicable regulations,
13 and the Secretary concerned, for the same covered
14 land included in the plan of development if—

15 (A) the plan of development has been de-
16 termined by the Secretary concerned to be ade-
17 quate for the initiation of environmental review;

18 (B) granting the lease is consistent with all
19 applicable land use planning, environmental,
20 and other laws;

21 (C) the applicant has made a good faith ef-
22 fort to obtain a right-of-way or, in the case of
23 National Forest System land, other authoriza-
24 tion, for the project; and

1 (D) issuance of the lease is in the public
2 interest.

3 (d) LEASING PROGRAM.—If the Secretaries deter-
4 mine under subsection (b) that a leasing program should
5 be established, the program shall be established in accord-
6 ance with subsections (e) through (k).

7 (e) COMPETITIVE LEASES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), leases for wind or solar energy develop-
10 ment under this section shall be issued on a competi-
11 tive basis with a single round of bidding in any lease
12 sale.

13 (2) EXCEPTIONS.—Paragraph (1) shall not
14 apply if the Secretary or, with respect to National
15 Forest System land, the Secretary of Agriculture de-
16 termines that—

17 (A) no competitive interest exists for the
18 covered land;

19 (B) the public interest would not be served
20 by the competitive issuance of a lease;

21 (C) the lease is for the placement and op-
22 eration of a meteorological or data collection fa-
23 cility or for the development or demonstration
24 of a new wind or solar technology and has a
25 term of not more than 5 years; or

1 (D) the covered land is eligible to be grant-
2 ed a noncompetitive lease under subsection (c).

3 (f) PAYMENTS.—

4 (1) IN GENERAL.—The Secretaries shall jointly
5 establish fees, rentals, bonuses, or other payments to
6 ensure a fair return to the United States for any
7 lease issued under this section.

8 (2) BONUS BIDS.—The Secretaries may grant
9 credit toward any bonus bid for a qualified expendi-
10 ture by the holder of a lease described in subsection
11 (e)(2)(C) in any competitive lease sale held for a
12 long-term lease covering the same land covered by
13 the lease described in subsection (e)(2)(C).

14 (g) QUALIFICATIONS.—Prior to any lease sale, the
15 Secretary shall establish qualifications for bidders that en-
16 sure bidders meet the requirements described in sub-
17 section (a)(3).

18 (h) REQUIREMENTS.—The Secretaries shall ensure
19 that any activity under a leasing program is carried out
20 in a manner that—

21 (1) is consistent with all applicable land use
22 planning, environmental, and other laws; and

23 (2) provides for—

24 (A) safety;

1 (B) protection of the environment and fish
2 and wildlife habitat;

3 (C) mitigation of impacts;

4 (D) prevention of waste;

5 (E) diligent development of the resource,
6 with specific milestones to be met by the lessee
7 as determined by the Secretaries;

8 (F) coordination with applicable Federal
9 agencies;

10 (G) a fair return to the United States for
11 any lease;

12 (H) use of best management practices, in-
13 cluding planning and practices for mitigation of
14 impacts;

15 (I) public notice and comment on any pro-
16 posal submitted for a lease under this section;

17 (J) oversight, inspection, research, moni-
18 toring, and enforcement relating to a lease
19 under this section;

20 (K) the quantity of acreage to be commen-
21 surate with the size of the project covered by a
22 lease; and

23 (L) efficient use of water resources.

24 (i) LEASE DURATION, SUSPENSION, AND CANCELLA-
25 TION.—

1 (1) DURATION.—A lease under this section
2 shall be for—

3 (A) an initial term of 25 years; and

4 (B) any additional period after the initial
5 term during which electricity is being produced
6 annually in commercial quantities from the
7 lease.

8 (2) ADMINISTRATION.—The Secretary shall es-
9 tablish terms and conditions for the issuance, trans-
10 fer, renewal, suspension, and cancellation of a lease
11 under this section.

12 (3) READJUSTMENT.—

13 (A) IN GENERAL.—Royalties, rentals, and
14 other terms and conditions of a lease under this
15 section shall be subject to readjustment—

16 (i) on the date that is 15 years after
17 the date on which the lease is issued; and

18 (ii) every 10 years thereafter.

19 (B) LEASE.—Each lease issued under this
20 Act shall provide for readjustment in accord-
21 ance with subparagraph (A).

22 (j) SURFACE-DISTURBING ACTIVITIES.—The Secre-
23 taries shall—

1 (1) regulate all surface-disturbing activities con-
2 ducted pursuant to any lease issued under this sec-
3 tion; and

4 (2) require any necessary reclamation and other
5 actions under the lease as are required in the inter-
6 est of conservation of surface resources.

7 (k) SECURITY.—The Secretaries shall require the
8 holder of a lease issued under this section—

9 (1) to furnish a surety bond or other form of
10 security, as prescribed by the Secretaries;

11 (2) to provide for the reclamation and restora-
12 tion of the area covered by the lease; and

13 (3) to comply with such other requirements as
14 the Secretaries consider necessary to protect the in-
15 terests of the public and the United States.

16 (l) PERIODIC REVIEW.—Not less frequently than
17 once every 5 years, the Secretary shall conduct a review
18 of the adequacy of the surety bond or other form of secu-
19 rity provided by the holder of a lease issued under this
20 section.

21 **SEC. 184. DISPOSITION OF REVENUES.**

22 (a) DISPOSITION OF REVENUES.—Of the amounts
23 collected as bonus bids, royalties, rentals, fees, or other
24 payments under a right-of-way, permit, lease, or other au-

1 thorization for the development of wind or solar energy
 2 on covered land—

3 (1) 25 percent shall be paid by the Secretary of
 4 the Treasury to the State within the boundaries of
 5 which the income is derived;

6 (2) 25 percent shall be paid by the Secretary of
 7 the Treasury to the 1 or more counties within the
 8 boundaries of which the income is derived; and

9 (3) 50 percent shall be deposited in the Treas-
 10 ury of the United States.

11 (b) PAYMENTS TO STATES AND COUNTIES.—
 12 Amounts paid to States and counties under subsection (a)
 13 shall be used consistent with section 35 of the Mineral
 14 Leasing Act (30 U.S.C. 191).

15 **Subtitle H—Miscellaneous** 16 **Provisions**

17 **SEC. 191. MILITARY OPERATIONS.**

18 The Secretary shall consult with the Secretary of De-
 19 fense regarding military operations needs in the waters of
 20 the outer Continental Shelf. The Secretary shall work with
 21 the Secretary of Defense to resolve any conflicts that
 22 might arise between such operations and leasing under
 23 this subtitle. If the Secretaries are unable to resolve all
 24 such conflicts, any unresolved issues shall be referred by

1 the Secretaries to the President within 90 days for im-
2 mediate resolution.

3 **SEC. 192. ENVIRONMENTAL SENSITIVITY ANALYSIS UNDER**
4 **THE PROGRAM.**

5 (a) ENVIRONMENTAL SENSITIVITY INDEX.—The En-
6 vironmental Sensitivity Index, developed by the National
7 Oceanic and Atmospheric Administration, which considers
8 the sensitivity of different shoreline areas to oil spills, and
9 the ranking under the program of the areas of the outer
10 Continental Shelf based upon the Environmental Sensi-
11 tivity Index, satisfies the requirements of section 18 of the
12 Act (43 U.S.C. 1344), including the requirement to con-
13 sider the relative environmental sensitivity of different
14 areas of the outer Continental Shelf under section
15 18(a)(2)(G) of the Act (43 U.S.C. 1344(a)(2)(G)).

16 (b) PROGRAM DEEMED SUFFICIENT.—The Final
17 Outer Continental Shelf Oil and Gas Leasing Program,
18 2007–2012, is deemed to meet all requirements of section
19 18 of the Act (43 U.S.C. 1344) and is effective as of the
20 date on which the Secretary made that program effective.

21 **SEC. 193. VALIDITY OF EXISTING LEASES.**

22 Any lease heretofore issued pursuant to a lease sale
23 held under the Final Outer Continental Shelf Oil and Gas
24 Leasing Program, 2007–2012, including any lease issued
25 pursuant to Lease Sale 193 or 213, is deemed to be in

1 full compliance with the Act and all other legal require-
2 ments.

3 **SEC. 194. INTEGRITY OF LEASE SALES AND LEASING**
4 **SCHEDULE.**

5 (a) LEASING DURING JUDICIAL OR ADMINISTRATIVE
6 REVIEW.—Section 18(d)(3) of the Act (43 U.S.C.
7 1344(d)(3)) is amended to read as follows:

8 “(3) After the leasing program has been approved by
9 the Secretary, except as otherwise provided by applicable
10 law, no lease shall be issued unless it is for an area in-
11 cluded in the approved leasing program and unless it con-
12 tains provisions consistent with the approved leasing pro-
13 gram, except that leasing shall continue for so long as
14 such program is under judicial or administrative review
15 pursuant to this Act, including any administrative review
16 occasioned by the remand of such program as a result of
17 judicial review. Any lease issued pursuant to a lease sale
18 held in the period that the approved leasing program is
19 under judicial or administrative review is deemed to have
20 been issued pursuant to an approved leasing program.”.

21 (b) COURT ACTION UPON APPEAL.—The last sen-
22 tence of section 23(c)(6) of the Act (43 U.S.C. 1349(c)(6))
23 is amended to read as follows: “The court may affirm or
24 modify any order or decision or may remand the pro-

ceedings to the Secretary for such further action as it may direct.”.

**SEC. 195. AUTHORITY TO CONDUCT OFFSHORE DRILLING
UNDER APPROVED PERMITS.**

(a) IN GENERAL.—Subject to subsection (b), each holder of a permit issued pursuant to an application for a permit to drill, including an application for a permit to sidetrack, that was approved by the Minerals Management Service before May 3, 2010, for purposes of outer Continental Shelf energy exploration or development and production may conduct all operations authorized under the terms of the permit (including all exploration plans, development operations coordination documents, and development production plans submitted for the permit)—

(1) without further review by the Bureau of Ocean Energy Management, Regulation and Enforcement and Bureau of Safety and Environmental Enforcement; and

(2) without further review or delay under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.) or any other similar statutes, including the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

1 (b) OPERATIONS.—Operations conducted under sub-
 2 section (a) shall be carried out in accordance with the safe-
 3 ty protocols contained in part 250 of title 30, Code of Fed-
 4 eral Regulations.

5 (c) REVIEW OF COMPLIANCE.—This section does not
 6 prohibit review of compliance with the terms of such a per-
 7 mit.

8 **SEC. 196. TIME REQUIREMENT TO ACT ON OIL AND NAT-**
 9 **URAL GAS DRILLING PERMITS.**

10 Subsection (d) of section 11 of the Act (43 U.S.C.
 11 1340) is amended by designating the existing text as para-
 12 graph (1) and adding at the end the following:

13 “(2)(A) The Secretary shall approve or dis-
 14 approve any application for a permit for drilling a
 15 well under an approved exploration or development
 16 plan, or any application to amend a previously ap-
 17 proved permit, within 30 days after its submission,
 18 except that the Secretary may disapprove such per-
 19 mit only upon a determination that—

20 “(i) any proposed activity under the permit
 21 would result in any condition described in sec-
 22 tion 5(a)(2)(A)(i); and

23 “(ii) such proposed activity cannot be
 24 modified to avoid such condition.

1 “(B) The Secretary may request additional in-
2 formation from the applicant prior to approving or
3 disapproving such application, but the request for
4 additional information must be received by the appli-
5 cant within 15 days after submission of the applica-
6 tion to the Secretary. Upon receipt of the additional
7 information requested by the Secretary, the Sec-
8 retary shall approve or disapprove the application
9 within 15 days in accordance with this subsection. If
10 the Secretary disapproves a permit application or an
11 amended permit application pursuant to this sub-
12 section, and there is no other well on the lease tract
13 capable of production in paying quantities, within 90
14 days after receipt of a final disapproval decision all
15 record title holders of the lease may request can-
16 cellation of the lease, and within 60 days after re-
17 ceipt of such cancellation request the Secretary shall
18 pay to the record title holders the amount of any
19 bonus bid paid for such lease. The Secretary shall
20 make such payment from amounts that otherwise
21 would be credited to miscellaneous receipts pursuant
22 to section 9.”.

1 **SEC. 197. TIMELY ISSUANCE OF ONSHORE OIL AND GAS**
2 **LEASES.**

3 Section 17(a)(1) of the Mineral Leasing Act (30
4 U.S.C. 226(b)(1)(A)) is amended by striking “Leases shall
5 be issued within 60 days following payment by the success-
6 ful bidder of the remainder of the bonus bid, if any, and
7 the annual rental for the first lease year.” and inserting
8 “Unless the Secretary issues a lease sooner, leases shall
9 automatically issue exactly 60 days following payment by
10 the successful bidder of the remainder of the bonus bid,
11 if any, and the annual rental for the first lease year. The
12 filing of any protest to the sale or issuance of a lease shall
13 not act to extend the date by which the lease is to be
14 issued following payment by the successful bidder under
15 the preceding sentence, nor shall the issuance of a lease
16 be delayed or deferred beyond 60 days following payment
17 by the successful bidder pending resolution of a protest
18 to the sale or issuance of the lease.”.

19 **SEC. 198. STATE AUDITING.**

20 Where authority is ceded to States to audit proc-
21 essing and transportation for purposes of royalty calcula-
22 tion under section 205 of the Royalty Simplification and
23 Fairness Act of 1996, State auditors shall provide back-
24 ground methodology and supporting detail to the payor
25 for audit findings; including formulas and supporting
26 worksheets detailing the calculations used when costs from

1 processing plants and transportation providers are dis-
2 allowed by the State auditor. The State shall seek written
3 authority from the processors and transporters to provide
4 this information when necessary and requested.

5 **TITLE II—CONTINENTAL** 6 **PIPELINE APPROVAL**

7 **SEC. 201. KEYSTONE XL PIPELINE PERMIT APPROVAL.**

8 (a) PERMIT APPROVAL.—The permit described in
9 subsection (b) is hereby approved.

10 (b) DESCRIPTION OF PERMIT.—The permit approved
11 under subsection (a) is the permit with respect to certain
12 energy-related facilities and land transportation crossings
13 on the international boundaries of the United States for
14 the Keystone XL pipeline project, an application for which
15 was filed on September 19, 2008 (including amendments).

16 (c) REQUIREMENTS.—The permit granted under sub-
17 section (a) shall require the following:

18 (1) The permittee shall comply with all applica-
19 ble Federal and State laws (including regulations)
20 and all applicable industrial codes regarding the con-
21 struction, connection, operation, and maintenance of
22 the United States facilities.

23 (2) The permittee shall take all appropriate
24 measures to prevent or mitigate any adverse envi-
25 ronmental impact or disruption of historic properties

1 in connection with the construction, operation, and
2 maintenance of the United States facilities.

3 (3) For the purpose of the permit approved
4 under subsection (a) (regardless of any modifications
5 under subsection (d))—

6 (A) the final environmental impact state-
7 ment issued by the Secretary of State on Au-
8 gust 26, 2011, satisfies all requirements of the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) and section 106 of the Na-
11 tional Historic Preservation Act (16 U.S.C.
12 470f);

13 (B) any modification required by the Sec-
14 retary of State to the Plan described in para-
15 graph (4)(A) shall not require supplementation
16 of the final environmental impact statement de-
17 scribed in that paragraph; and

18 (C) no further Federal environmental re-
19 view shall be required.

20 (4) The construction, operation, and mainte-
21 nance of the facilities shall be in all material re-
22 spects similar to that described in the application
23 described in subsection (b) and in accordance with—

24 (A) the construction, mitigation, and rec-
25 lamation measures agreed to by the permittee

1 in the Construction Mitigation and Reclamation
2 Plan found in appendix B of the final environ-
3 mental impact statement issued by the Sec-
4 retary of State on August 26, 2011, subject to
5 the modification described in subsection (d);

6 (B) the special conditions agreed to be-
7 tween the permittee and the Administrator of
8 the Pipeline Hazardous Materials Safety Ad-
9 ministration of the Department of Transpor-
10 tation found in appendix U of the final environ-
11 mental impact statement described in subpara-
12 graph (A);

13 (C) if the modified route submitted by the
14 Governor of Nebraska under subsection
15 (d)(3)(B) crosses the Sand Hills region, the
16 measures agreed to by the permittee for the
17 Sand Hills region found in appendix H of the
18 final environmental impact statement described
19 in subparagraph (A); and

20 (D) the stipulations identified in appendix
21 S of the final environmental impact statement
22 described in subparagraph (A).

23 (5) Other requirements that are standard in-
24 dustry practice or commonly included in Federal

1 permits that are similar to a permit approved under
2 subsection (a).

3 (d) MODIFICATION.—The permit approved under
4 subsection (a) shall require—

5 (1) the reconsideration of routing of the Key-
6 stone XL pipeline within the State of Nebraska;

7 (2) a review period during which routing within
8 the State of Nebraska may be reconsidered and the
9 route of the Keystone XL pipeline through the State
10 altered with any accompanying modification to the
11 Plan described in subsection (c)(4)(A); and

12 (3) the President—

13 (A) to coordinate review with the State of
14 Nebraska and provide any necessary data and
15 reasonable technical assistance material to the
16 review process required under this subsection;
17 and

18 (B) to approve the route within the State
19 of Nebraska that has been submitted to the
20 Secretary of State by the Governor of Ne-
21 braska.

22 (e) EFFECT OF NO APPROVAL.—If the President
23 does not approve the route within the State of Nebraska
24 submitted by the Governor of Nebraska under subsection
25 (d)(3)(B) not later than 10 days after the date of submis-

1 sion, the route submitted by the Governor of Nebraska
 2 under subsection (d)(3)(B) shall be considered approved,
 3 pursuant to the terms of the permit approved under sub-
 4 section (a) that meets the requirements of subsection (c)
 5 and this subsection, by operation of law.

6 (f) PRIVATE PROPERTY SAVINGS CLAUSE.—Nothing
 7 in this section alters the Federal, State, or local processes
 8 or conditions in effect on the date of enactment of this
 9 Act that are necessary to secure access from private prop-
 10 erty owners to construct the Keystone XL pipeline.

11 **TITLE III—RADIOLOGICAL** 12 **MATERIAL REPOSITORY**

13 **SEC. 301. RADIOLOGICAL MATERIAL REPOSITORY.**

14 (a) REPOSITORY REQUIRED.—The Federal Govern-
 15 ment shall site and permit at least one radiological mate-
 16 rial geologic repository for the disposal of radiological ma-
 17 terial.

18 (b) YUCCA MOUNTAIN.—

19 (1) IN GENERAL.—The repository site at Yucca
 20 Mountain shall remain the site for the Nation’s radi-
 21 ological material repository following full statutory
 22 review of the Department of Energy’s license appli-
 23 cation to construct the Yucca Mountain repository.

24 (2) APPLICATION.—The Nuclear Regulatory
 25 Commission shall continue to review the Department

1 of Energy's pending license application to construct
2 the repository at Yucca Mountain until a determina-
3 tion is made on the merits of the application.

4 (c) DEADLINES.—

5 (1) SUITABILITY DETERMINATION.—Not later
6 than 90 days after the enactment of this Act, the
7 Nuclear Regulatory Commission shall make a deter-
8 mination regarding the suitability of Yucca Moun-
9 tain under subsection (a).

10 (2) ACTION ON APPLICATION.—Not later than
11 180 days after the enactment of this Act, the Nu-
12 clear Regulatory Commission shall approve the ap-
13 plication under subsection (b).

14 (d) LIMITATIONS ON AMOUNT OF RADIOLOGICAL
15 MATERIAL.—All statutory limitations on the amount of
16 radiological material that can be placed in Yucca Moun-
17 tain are hereby removed and shall be replaced by the Nu-
18 clear Regulatory Commission with new limits based on sci-
19 entific and technical analysis of the full capacity of Yucca
20 Mountain for the storage of radiological material.

1 **TITLE IV—RELIEF FROM REGU-**
2 **LATIONS AND PROHIBITIONS**
3 **THAT CAUSE ARTIFICIAL**
4 **PRICE INCREASES**

5 **SEC. 401. ENDANGERED SPECIES ACT OF 1973 REFORM.**

6 The Endangered Species Act of 1973 (16 U.S.C.
7 1531 et seq.) is amended—

8 (1) by striking “best scientific and commercial
9 data available” each place it appears and inserting
10 “best scientific and economic data available at the
11 time, including analysis of the costs and benefits of
12 the matter under consideration”; and

13 (2) by adding at the end the following:

14 **“SEC. 19. SCOPE.**

15 “Nothing in this Act shall be construed to authorize
16 the use of this Act or the rules and regulations promul-
17 gated pursuant to this Act to regulate greenhouse gas
18 emissions.”.

19 **SEC. 402. REPEAL OF EPA CLIMATE CHANGE REGULATION.**

20 (a) GREENHOUSE GAS REGULATION UNDER CLEAN
21 AIR ACT.—Section 302(g) of the Clean Air Act (42 U.S.C.
22 7602(g)) is amended by adding the following at the end
23 thereof: “The term ‘air pollutant’ does not include carbon
24 dioxide, water vapor, methane, nitrous oxide,

1 hydrofluorocarbons, perfluorocarbons, or sulfur
2 hexafluoride.”.

3 (b) NO REGULATION OF CLIMATE CHANGE.—Noth-
4 ing in the Clean Air Act (42 U.S.C. 7401 et seq.), the
5 Federal Water Pollution Control Act (33 U.S.C. 1251 et
6 seq.), the National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.), the Endangered Species Act of 1973
8 (16 U.S.C. 1531 et seq.), or the Solid Waste Disposal Act
9 (42 U.S.C. 6901 et seq.), shall be treated as authorizing
10 or requiring the regulation of climate change or global
11 warming.

12 (c) EXCEPTIONS.—Notwithstanding subsections (a)
13 and (b), this section does not prohibit the following:

14 (1) Implementation and enforcement of the rule
15 entitled “Light-Duty Vehicle Greenhouse Gas Emis-
16 sion Standards and Corporate Average Fuel Econ-
17 omy Standards” (as published at 75 Fed. Reg.
18 25324 (May 7, 2010) and without further revision)
19 and finalization, implementation, enforcement, and
20 revision of the proposed rule entitled “Greenhouse
21 Gas Emissions Standards and Fuel Efficiency
22 Standards for Medium- and Heavy-Duty Engines
23 and Vehicles” published at 75 Fed. Reg. 74152 (No-
24 vember 30, 2010).

1 (2) Statutorily authorized Federal research, de-
 2 velopment, demonstration programs and voluntary
 3 programs addressing climate change.

4 (3) Implementation and enforcement of title VI
 5 of the Clean Air Act (42 U.S.C. 7671 et seq.) to the
 6 extent such implementation or enforcement only in-
 7 volves one or more class I substances or class II sub-
 8 stances (as such terms are defined in section 601 of
 9 such title).

10 (4) Implementation and enforcement of section
 11 821 (42 U.S.C. 7651k note) of Public Law 101–549
 12 (commonly referred to as the “Clean Air Act
 13 Amendments of 1990”).

14 **SEC. 403. REPEAL OF FEDERAL BAN ON SYNTHETIC FUELS**
 15 **PURCHASING REQUIREMENT.**

16 Section 526 of the Energy Independence and Security
 17 Act of 2007 (42 U.S.C. 17142) is repealed.

18 **SEC. 404. REPEAL OF ETHANOL MANDATES.**

19 Section 211(o) of the Clean Air Act (42 U.S.C.
 20 7545(o); relating to the Renewable Fuel Program) is re-
 21 pealed.

22 **TITLE V—REFINERY REFORM**

23 **SEC. 501. REFINERY PERMITTING PROCESS.**

24 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) EXPANSION.—The term “expansion” means
5 a physical change that results in an increase in the
6 capacity of a refinery.

7 (3) INDIAN TRIBE.—The term “Indian tribe”
8 has the meaning given the term in section 4 of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b).

11 (4) PERMIT.—The term “permit” means any
12 permit, license, approval, variance, or other form of
13 authorization that a refiner is required to obtain—

14 (A) under any Federal law; or

15 (B) from a State or Indian tribal govern-
16 ment agency delegated authority by the Federal
17 Government, or authorized under Federal law,
18 to issue permits.

19 (5) REFINER.—The term “refiner” means a
20 person that—

21 (A) owns or operates a refinery; or

22 (B) seeks to become an owner or operator
23 of a refinery.

24 (6) REFINERY.—

1 (A) IN GENERAL.—The term “refinery”
2 means—

3 (i) a facility at which crude oil is re-
4 fined into transportation fuel or other pe-
5 troleum products; and

6 (ii) a coal liquification or coal-to-liquid
7 facility at which coal is processed into syn-
8 thetic crude oil or any other fuel.

9 (B) INCLUSIONS.—The term “refinery” in-
10 cludes an expansion of a refinery.

11 (7) REFINERY PERMITTING AGREEMENT.—The
12 term “refinery permitting agreement” means an
13 agreement entered into between the Administrator
14 and a State or Indian tribe under subsection (b).

15 (8) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 and

20 (D) any other territory or possession of the
21 United States.

22 (b) STREAMLINING OF REFINERY PERMITTING
23 PROCESS.—

24 (1) IN GENERAL.—At the request of the Gov-
25 ernor of a State or the governing body of an Indian

1 tribe, the Administrator shall enter into a refinery
2 permitting agreement with the State or Indian tribe
3 under which the process for obtaining all permits
4 necessary for the construction and operation of a re-
5 finery shall be streamlined using a systematic inter-
6 disciplinary multimedia approach as provided in this
7 section.

8 (2) AUTHORITY OF ADMINISTRATOR.—Under a
9 refinery permitting agreement the Administrator
10 shall have authority, as applicable and necessary,
11 to—

12 (A) accept from a refiner a consolidated
13 application for all permits that the refiner is re-
14 quired to obtain to construct and operate a re-
15 finery;

16 (B) in consultation and cooperation with
17 each Federal, State, or Indian tribal govern-
18 ment agency that is required to make any de-
19 termination to authorize the issuance of a per-
20 mit, establish a schedule under which each
21 agency shall—

22 (i) concurrently consider, to the max-
23 imum extent practicable, each determina-
24 tion to be made; and

1 (ii) complete each step in the permit-
2 ting process; and

3 (C) issue a consolidated permit that com-
4 bines all permits issued under the schedule es-
5 tablished under subparagraph (B).

6 (3) AGREEMENT BY THE STATE.—Under a re-
7 finery permitting agreement, a State or governing
8 body of an Indian tribe shall agree that—

9 (A) the Administrator shall have each of
10 the authorities described in paragraph (2); and

11 (B) each State or Indian tribal government
12 agency shall—

13 (i) in accordance with State law, make
14 such structural and operational changes in
15 the agencies as are necessary to enable the
16 agencies to carry out consolidated project-
17 wide permit reviews concurrently and in
18 coordination with the Environmental Pro-
19 tection Agency and other Federal agencies;
20 and

21 (ii) comply, to the maximum extent
22 practicable, with the applicable schedule
23 established under paragraph (2)(B).

24 (4) DEADLINES.—

1 (A) NEW REFINERIES.—In the case of a
2 consolidated permit for the construction of a
3 new refinery, the Administrator and the State
4 or governing body of an Indian tribe shall ap-
5 prove or disapprove the consolidated permit not
6 later than—

7 (i) 365 days after the date of the re-
8 ceipt of the administratively complete ap-
9 plication for the consolidated permit; or

10 (ii) on agreement of the applicant, the
11 Administrator, and the State or governing
12 body of the Indian tribe, 90 days after the
13 expiration of the deadline established
14 under clause (i).

15 (B) EXPANSION OF EXISTING REFIN-
16 ERIES.—In the case of a consolidated permit
17 for the expansion of an existing refinery, the
18 Administrator and the State or governing body
19 of an Indian tribe shall approve or disapprove
20 the consolidated permit not later than—

21 (i) 120 days after the date of the re-
22 ceipt of the administratively complete ap-
23 plication for the consolidated permit; or

24 (ii) on agreement of the applicant, the
25 Administrator, and the State or governing

1 body of the Indian tribe, 30 days after the
2 expiration of the deadline established
3 under clause (i).

4 (5) FEDERAL AGENCIES.—Each Federal agency
5 that is required to make any determination to au-
6 thorize the issuance of a permit shall comply with
7 the applicable schedule established under paragraph
8 (2)(B).

9 (6) JUDICIAL REVIEW.—Any civil action for re-
10 view of any permit determination under a refinery
11 permitting agreement shall be brought exclusively in
12 the United States district court for the district in
13 which the refinery is located or proposed to be lo-
14 cated.

15 (7) EFFICIENT PERMIT REVIEW.—In order to
16 reduce the duplication of procedures, the Adminis-
17 trator shall use State permitting and monitoring
18 procedures to satisfy substantially equivalent Fed-
19 eral requirements under this title.

20 (8) SEVERABILITY.—If 1 or more permits that
21 are required for the construction or operation of a
22 refinery are not approved on or before any deadline
23 established under paragraph (4), the Administrator
24 may issue a consolidated permit that combines all

1 other permits that the refiner is required to obtain
 2 other than any permits that are not approved.

3 (9) SAVINGS.—Nothing in this subsection af-
 4 fects the operation or implementation of otherwise
 5 applicable law regarding permits necessary for the
 6 construction and operation of a refinery.

7 (10) CONSULTATION WITH LOCAL GOVERN-
 8 MENTS.—Congress directs the Administrator, States,
 9 and tribal governments to consult, to the maximum
 10 extent practicable, with local governments in car-
 11 rying out this subsection.

12 (11) EFFECT ON LOCAL AUTHORITY.—Nothing
 13 in this subsection affects—

14 (A) the authority of a local government
 15 with respect to the issuance of permits; or

16 (B) any requirement or ordinance of a
 17 local government (such as a zoning regulation).

18 (c) FISCHER-TROPSCH FUELS.—

19 (1) IN GENERAL.—In cooperation with the Sec-
 20 retary of Energy, the Secretary of Defense, the Ad-
 21 ministrator of the Federal Aviation Administration,
 22 Secretary of Health and Human Services, and
 23 Fischer-Tropsch industry representatives, the Ad-
 24 ministrator shall—

1 (A) conduct a research and demonstration
2 program to evaluate the air quality benefits of
3 Fischer-Tropsch transportation fuel, including
4 diesel and jet fuel;

5 (B) evaluate the use of Fischer-Tropsch
6 transportation fuel as a mechanism for reduc-
7 ing engine exhaust emissions; and

8 (C) submit recommendations to Congress
9 on the most effective use and associated bene-
10 fits of these fuels for reducing public exposure
11 to exhaust emissions.

12 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
13 Administrator shall, to the extent necessary, issue
14 any guidance or technical support documents that
15 would facilitate the effective use and associated ben-
16 efit of Fischer-Tropsch fuel and blends.

17 (3) REQUIREMENTS.—The program described
18 in paragraph (1) shall consider—

19 (A) the use of neat (100 percent) Fischer-
20 Tropsch fuel and blends with conventional
21 crude oil-derived fuel for heavy-duty and light-
22 duty diesel engines and the aviation sector; and

23 (B) the production costs associated with
24 domestic production of fuel and prices for con-
25 sumers.

1 (4) REPORTS.—The Administrator shall submit
 2 to the Committee on Environment and Public Works
 3 and the Committee on Energy and Natural Re-
 4 sources of the Senate and the Committee on Energy
 5 and Commerce and the Committee on Natural Re-
 6 sources of the House of Representatives—

7 (A) not later than 1 year after the date of
 8 enactment of this Act, an interim report on ac-
 9 tions taken to carry out this subsection; and

10 (B) not later than 2 years after the date
 11 of enactment of this Act, a final report on ac-
 12 tions taken to carry out this subsection.

13 **SEC. 502. EXISTING REFINERY PERMIT APPLICATION DEAD-**
 14 **LINE.**

15 Notwithstanding any other provision of law, applica-
 16 tions for a permit for existing refinery applications shall
 17 not be considered to be timely if submitted after 120 days
 18 after the date of enactment of this Act.

19 **TITLE VI—REPEAL OF ENERGY**
 20 **TAX SUBSIDIES**

21 **SEC. 600. AMENDMENT OF 1986 CODE.**

22 Except as otherwise expressly provided, whenever in
 23 this title an amendment or repeal is expressed in terms
 24 of an amendment to, or repeal of, a section or other provi-
 25 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **SEC. 601. REPEAL OF CREDIT FOR ALCOHOL FUEL, BIO-**
4 **DIESEL, AND ALTERNATIVE FUEL MIXTURES.**

5 (a) IN GENERAL.—Section 6426 is repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subparagraph (D) of section 6427(e)(6) is
8 amended by striking “September 30, 2014” and in-
9 serting “September 30, 2012”.

10 (2) Paragraph (1) of section 4101(a) is amend-
11 ed by striking “or alcohol (as defined in section
12 6426(b)(4)(A))”.

13 (3) Paragraph (2) of section 4104(a) is amend-
14 ed by striking “6426, or 6427(e)”.

15 (4) Subparagraph (E) of section 7704(d)(1) is
16 amended—

17 (A) by inserting “(as in effect on the day
18 before the date of the enactment of the Energy
19 Exploration and Production to Achieve National
20 Demand Act)” after “of section 6426”, and

21 (B) by inserting “(as so in effect)” after
22 “section 6426(b)(4)(A)”.

23 (5) Paragraph (1) of section 9503(b) is amend-
24 ed by striking the second sentence.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subchapter B of chapter 65 is amended by striking
 3 the item relating to section 6426.

4 (d) EFFECTIVE.—The amendments made by this sec-
 5 tion shall apply with respect to fuel sold and used after
 6 December 31, 2012.

7 **SEC. 602. REPEAL OF CREDIT FOR CERTAIN PLUG-IN ELEC-**
 8 **TRIC VEHICLES.**

9 (a) IN GENERAL.—Section 30 is repealed.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Paragraph (3) of section 24(b) is amended
 12 by striking “, 30”.

13 (2) Clause (ii) of section 25(e)(1)(C) is amend-
 14 ed by striking “, 30”.

15 (3) Paragraph (2) of section 25B(g) is amended
 16 by striking “, 30”.

17 (4) Paragraph (1) of section 26(a) is amended
 18 by striking “, 30”.

19 (5) Subclause (VI) of section 48C(c)(1)(A)(i) is
 20 amended by inserting “(as in effect on the day be-
 21 fore the date of the enactment of the Energy Explo-
 22 ration and Production to Achieve National Demand
 23 Act)” after “section 30(d)”.

24 (6) Paragraph (3) of section 179A(c) is amend-
 25 ed by inserting “(as in effect on the day before the

1 date of the enactment of the Energy Freedom and
 2 Economic Prosperity Act)” after section “30(c)”.

3 (7) Subsection (a) of section 1016 is amended
 4 by striking paragraph (25) and by redesignating
 5 paragraphs (26) through (37) as paragraphs (25)
 6 through (36), respectively.

7 (8) Subsection (m) of section 6501 is amended
 8 by striking “30(e)(6)”.

9 (c) CLERICAL AMENDMENT.—The table of sections
 10 for subpart B of part IV of subchapter A of chapter 1
 11 is amended by striking the item relating to section 30.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to property placed in service after
 14 December 31, 2011.

15 **SEC. 603. EARLY TERMINATION OF CREDIT FOR QUALIFIED**
 16 **FUEL CELL MOTOR VEHICLES.**

17 (a) IN GENERAL.—Section 30B is repealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subparagraph (A) of section 24(b)(3) is
 20 amended by striking “, 30B”.

21 (2) Clause (ii) of section 25(e)(1)(C) is amend-
 22 ed by striking “, 30B”.

23 (3) Paragraph (2) of section 25B(g) is amended
 24 by striking “, 30B,”.

1 (4) Paragraph (1) of section 26(a) is amended
2 by striking “, 30B”.

3 (5) Subsection (b) of section 38 is amended by
4 striking paragraph (25).

5 (6) Subsection (a) of section 1016, as amended
6 by section 602 of this Act, is amended by striking
7 paragraph (33) and by redesignating paragraphs
8 (34), (35), and (36) as paragraphs (33), (34), and
9 (35), respectively.

10 (7) Paragraph (2) of section 1400C(d) is
11 amended by striking “, 30B”.

12 (8) Subsection (m) of section 6501 is amended
13 by striking “, 30B(h)(9)”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for subpart B of part IV of subchapter A of chapter 1
16 is amended by striking the item relating to section 30B.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2012.

20 **SEC. 604. REPEAL OF ALTERNATIVE FUEL VEHICLE RE-**
21 **FUELING PROPERTY CREDIT.**

22 (a) IN GENERAL.—Section 30C is repealed.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Subsection (b) of section 38 is amended by
25 striking paragraph (26).

1 (2) Paragraph (3) of section 55(c) is amended
2 by striking “, 30C(d)(2),”.

3 (3) Subsection (a) of section 1016, as amended
4 by sections 602 and 603 of this Act, is amended by
5 striking paragraph (33) and by redesignating para-
6 graph (34) and (35) as paragraphs (33) and (34),
7 respectively.

8 (4) Subsection (m) of section 6501 is amended
9 by striking “, 30C(e)(5)”.

10 (c) CLERICAL AMENDMENT.—The table of sections
11 for subpart B of part IV of subchapter A of chapter 1
12 is amended by striking the item relating to section 30C.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to property placed in service after
15 December 31, 2012.

16 **SEC. 605. REPEAL OF CREDIT FOR ALCOHOL USED AS**
17 **FUEL.**

18 (a) IN GENERAL.—Section 40 is repealed.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subsection (b) of section 38 is amended by
21 striking paragraph (3).

22 (2) Subsection (c) of section 196 is amended by
23 striking paragraph (3) and by redesignating para-
24 graphs (4) through (14) as paragraphs (3) through
25 (13), respectively.

1 (3) Paragraph (1) of section 4101(a) is amend-
 2 ed by striking “, and every person producing cellu-
 3 losic biofuel (as defined in section 40(b)(6)(E))”.

4 (4) Paragraph (1) of section 4104(a) is amend-
 5 ed by striking “, 40”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to fuel sold or used after December
 8 31, 2012.

9 **SEC. 606. REPEAL OF CREDIT FOR BIODIESEL AND RENEW-**
 10 **ABLE DIESEL USED AS FUEL.**

11 (a) IN GENERAL.—Section 40A is repealed.

12 (b) CONFORMING AMENDMENT.—

13 (1) Subsection (b) of section 38 is amended by
 14 striking paragraph (17).

15 (2) Section 87 is repealed.

16 (3) Subsection (c) of section 196, as amended
 17 by section 605 of this Act, is amended by striking
 18 paragraph (11) and by redesignating paragraphs
 19 (11), (12), and (13) as paragraphs (10), (11), and
 20 (12), respectively.

21 (4) Paragraph (1) of section 4101(a) is amend-
 22 ed by striking “, every person producing or import-
 23 ing biodiesel (as defined in section 40A(d)(1))”.

24 (5) Paragraph (1) of section 4104(a) is amend-
 25 ed by striking “, and 40A”.

1 (6) Subparagraph (E) of section 7704(d)(1) is
2 amended by inserting “(as so in effect)” after “sec-
3 tion 40A(d)(1)”.

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for subpart D of part IV of subchapter A of chapter 1
6 is amended by striking the item relating to section 40A.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to fuel produced, and sold or used,
9 after December 31, 2011.

10 **SEC. 607. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

11 (a) IN GENERAL.—Section 43 is repealed.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (b) of section 38 is amended by
14 striking paragraph (6).

15 (2) Paragraph (4) of section 45Q(d) is amended
16 by inserting “(as in effect on the day before the date
17 of the enactment of the Energy Exploration and
18 Production to Achieve National Demand Act)” after
19 “section 43(c)(2)”.

20 (3) Subsection (c) of section 196, as amended
21 by sections 605 and 606 of this Act, is amended by
22 striking paragraph (5) and by redesignating para-
23 graphs (6) through (12) as paragraphs (5) through
24 (11), respectively.

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 is amended by striking the item relating to section 43.

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to costs paid or incurred in taxable
 6 years beginning after December 31, 2012.

7 **SEC. 608. TERMINATION OF CREDIT FOR ELECTRICITY**
 8 **PRODUCED FROM CERTAIN RENEWABLE RE-**
 9 **SOURCES.**

10 (a) IN GENERAL.—Subsection (d) of section 45 is
 11 amended—

12 (1) by striking “2013” in paragraph (1) and in-
 13 serting “2012”, and

14 (2) by striking “2014” each place it appears in
 15 paragraphs (2), (3), (4), (6), (7), (9), and (11) and
 16 inserting “2012”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to property placed in service after
 19 December 31, 2012.

20 **SEC. 609. REPEAL OF CREDIT FOR PRODUCING OIL AND**
 21 **GAS FROM MARGINAL WELLS.**

22 (a) IN GENERAL.—Section 45I is repealed.

23 (b) CONFORMING AMENDMENT.—Subsection (b) of
 24 section 38 is amended by striking paragraph (19).

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 is amended by striking the item relating to section 45L.

4 (d) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to production in taxable years be-
 6 ginning after December 31, 2012.

7 **SEC. 610. TERMINATION OF CREDIT FOR PRODUCTION**
 8 **FROM ADVANCED NUCLEAR POWER FACILI-**
 9 **TIES.**

10 (a) IN GENERAL.—Subparagraph (B) of section
 11 45J(d)(1) is amended by striking “January 1, 2021” and
 12 inserting “January 1, 2013”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to property placed in service after
 15 December 31, 2012.

16 **SEC. 611. REPEAL OF CREDIT FOR CARBON DIOXIDE SE-**
 17 **QUESTRATION.**

18 (a) IN GENERAL.—Section 45Q is repealed.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to carbon dioxide captured after
 21 December 31, 2012.

22 **SEC. 612. TERMINATION OF ENERGY CREDIT.**

23 (a) IN GENERAL.—Section 48 is amended—

24 (1) by striking “January 1, 2017” each place
 25 it appears and inserting “January 1, 2013”,

1 (2) by striking “December 31, 2016” each
2 place it appears and inserting “December 31,
3 2012”, and

4 (3) by striking “2012, or 2013” in subsection
5 (a)(5)(C)(ii) and inserting “or 2012”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 December 31, 2012.

9 **SEC. 613. REPEAL OF QUALIFYING ADVANCED COAL**
10 **PROJECT.**

11 (a) IN GENERAL.—Section 48A is repealed.

12 (b) CONFORMING AMENDMENT.—Section 46 is
13 amended by striking paragraph (3) and by redesignating
14 paragraphs (4), (5), and (6) as paragraphs (3), (4), and
15 (5), respectively.

16 (c) CLERICAL AMENDMENT.—The table of sections
17 for subpart E of part IV of subchapter A of chapter 1
18 is amended by striking the item relating to section 48A.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 December 31, 2012.

22 **SEC. 614. REPEAL OF QUALIFYING GASIFICATION PROJECT**
23 **CREDIT.**

24 (a) IN GENERAL.—Section 48B is repealed.

1 (b) CONFORMING AMENDMENT.—Section 46, as
 2 amended by section 613, is amended by striking para-
 3 graph (3) and by redesignating paragraphs (4) and (5)
 4 as paragraphs (3) and (4), respectively.

5 (c) CLERICAL AMENDMENT.—The table of sections
 6 for subpart E of part IV of subchapter A of chapter 1
 7 is amended by striking the item relating to section 48B.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to property placed in service after
 10 December 31, 2012.

11 **SEC. 615. REPEAL OF AMERICAN RECOVERY AND REIN-**
 12 **VESTMENT ACT OF 2009 ENERGY GRANT PRO-**
 13 **GRAM.**

14 (a) IN GENERAL.—Section 1603 of division B of the
 15 American Recovery and Reinvestment Act of 2009 is re-
 16 pealed.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply to property placed in service after
 19 December 31, 2011.

20 **TITLE VII—REGULATORY**
 21 **RELIEF**

22 **SEC. 701. LEGISLATIVE STAY.**

23 (a) ESTABLISHMENT OF STANDARDS.—In place of
 24 the rules specified in subsection (b), and notwithstanding
 25 the date by which such rules would otherwise be required

1 to be promulgated, the Administrator of the Environ-
2 mental Protection Agency (in this title referred to as the
3 “Administrator”) shall—

4 (1) propose regulations for industrial, commer-
5 cial, and institutional boilers and process heaters,
6 and commercial and industrial solid waste inciner-
7 ator units, subject to any of the rules specified in
8 subsection (b)—

9 (A) establishing maximum achievable con-
10 trol technology standards, performance stand-
11 ards, and other requirements under sections
12 112 and 129, as applicable, of the Clean Air
13 Act (42 U.S.C. 7412, 7429); and

14 (B) identifying non-hazardous secondary
15 materials that, when used as fuels or ingredi-
16 ents in combustion units of such boilers, proc-
17 ess heaters, or incinerator units are solid waste
18 under the Solid Waste Disposal Act (42 U.S.C.
19 6901 et seq.; commonly referred to as the “Re-
20 source Conservation and Recovery Act”) for
21 purposes of determining the extent to which
22 such combustion units are required to meet the
23 emissions standards under section 112 of the
24 Clean Air Act (42 U.S.C. 7412) or the emission

1 standards under section 129 of such Act (42
2 U.S.C. 7429); and

3 (2) finalize the regulations on the date that is
4 15 months after the date of the enactment of this
5 Act.

6 (b) STAY OF EARLIER RULES.—The following rules
7 are of no force or effect, shall be treated as though such
8 rules had never taken effect, and shall be replaced as de-
9 scribed in subsection (a):

10 (1) “National Emission Standards for Haz-
11 ardous Air Pollutants for Major Sources: Industrial,
12 Commercial, and Institutional Boilers and Process
13 Heaters”, published at 76 Fed. Reg. 15608 (March
14 21, 2011).

15 (2) “National Emission Standards for Haz-
16 ardous Air Pollutants for Area Sources: Industrial,
17 Commercial, and Institutional Boilers”, published at
18 76 Fed. Reg. 15554 (March 21, 2011).

19 (3) “Standards of Performance for New Sta-
20 tionary Sources and Emission Guidelines for Exist-
21 ing Sources: Commercial and Industrial Solid Waste
22 Incineration Units”, published at 76 Fed. Reg.
23 15704 (March 21, 2011).

1 (4) “Identification of Non-Hazardous Sec-
2 ondary Materials That Are Solid Waste”, published
3 at 76 Fed. Reg. 15456 (March 21, 2011).

4 (c) INAPPLICABILITY OF CERTAIN PROVISIONS.—
5 With respect to any standard required by subsection (a)
6 to be promulgated in regulations under section 112 of the
7 Clean Air Act (42 U.S.C. 7412), the provisions of sub-
8 sections (g)(2) and (j) of such section 112 shall not apply
9 prior to the effective date of the standard specified in such
10 regulations.

11 **SEC. 702. COMPLIANCE DATES.**

12 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
13 each regulation promulgated pursuant to section 701, the
14 Administrator—

15 (1) shall establish a date for compliance with
16 standards and requirements under such regulation
17 that is, notwithstanding any other provision of law,
18 not earlier than 5 years after the effective date of
19 the regulation; and

20 (2) in proposing a date for such compliance,
21 shall take into consideration—

22 (A) the costs of achieving emissions reduc-
23 tions;

1 (B) any non-air quality health and environ-
2 mental impact and energy requirements of the
3 standards and requirements;

4 (C) the feasibility of implementing the
5 standards and requirements, including the time
6 needed to—

7 (i) obtain necessary permit approvals;

8 and

9 (ii) procure, install, and test control
10 equipment;

11 (D) the availability of equipment, sup-
12 pliers, and labor, given the requirements of the
13 regulation and other proposed or finalized regu-
14 lations of the Environmental Protection Agency;
15 and

16 (E) potential net employment impacts.

17 (b) NEW SOURCES.—The date on which the Adminis-
18 trator proposes a regulation pursuant to section 701(a)(1)
19 establishing an emission standard under section 112 or
20 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
21 be treated as the date on which the Administrator first
22 proposes such a regulation for purposes of applying the
23 definition of a new source under section 112(a)(4) of such
24 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid

1 waste incineration unit under section 129(g)(2) of such
2 Act (42 U.S.C. 7429(g)(2)).

3 (c) RULE OF CONSTRUCTION.—Nothing in this title
4 shall be construed to restrict or otherwise affect the provi-
5 sions of paragraphs (3)(B) and (4) of section 112(i) of
6 the Clean Air Act (42 U.S.C. 7412(i)).

7 **SEC. 703. ENERGY RECOVERY AND CONSERVATION.**

8 Notwithstanding any other provision of law, and to
9 ensure the recovery and conservation of energy consistent
10 with the Solid Waste Disposal Act (42 U.S.C. 6901 et
11 seq.; commonly referred to as the “Resource Conservation
12 and Recovery Act”), in promulgating rules under section
13 701(a) addressing the subject matter of the rules specified
14 in paragraphs (3) and (4) of section 701(b), the Adminis-
15 trator—

16 (1) shall adopt the definitions of the terms
17 “commercial and industrial solid waste incineration
18 unit”, “commercial and industrial waste”, and “con-
19 tained gaseous material” in the rule entitled “Stand-
20 ards of Performance for New Stationary Sources
21 and Emission Guidelines for Existing Sources: Com-
22 mercial and Industrial Solid Waste Incineration
23 Units”, published at 65 Fed. Reg. 75338 (December
24 1, 2000); and

1 (2) shall identify non-hazardous secondary ma-
2 terial to be solid waste only if—

3 (A) the material meets such definition of
4 commercial and industrial waste; or

5 (B) if the material is a gas, it meets such
6 definition of contained gaseous material.

7 **SEC. 704. OTHER PROVISIONS.**

8 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
9 PRACTICE.—In promulgating rules under section 701(a),
10 the Administrator shall ensure that emissions standards
11 for existing and new sources established under section 112
12 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as
13 applicable, can be met under actual operating conditions
14 consistently and concurrently with emission standards for
15 all other air pollutants regulated by the rule for the source
16 category, taking into account variability in actual source
17 performance, source design, fuels, inputs, controls, ability
18 to measure the pollutant emissions, and operating condi-
19 tions.

20 (b) REGULATORY ALTERNATIVES.—For each regula-
21 tion promulgated pursuant to section 701(a), from among
22 the range of regulatory alternatives authorized under the
23 Clean Air Act (42 U.S.C. 7401 et seq.) including work
24 practice standards under section 112(h) of such Act (42
25 U.S.C. 7412(h)), the Administrator shall impose the least

1 burdensome, consistent with the purposes of such Act and
 2 Executive Order No. 13563 published at 76 Fed. Reg.
 3 3821 (January 21, 2011).

4 (c) DEDUCTION FOR CAPITAL EXPENDITURES RE-
 5 LATING TO ENERGY PROPERTY.—

6 (1) IN GENERAL.—

7 (A) IN GENERAL.—Part VI of subchapter
 8 B of chapter 1 is amended by inserting after
 9 section 179E the following new section:

10 **“SEC. 179F. ELECTION TO EXPENSE PROPERTY USED IN**
 11 **THE PRODUCTION OF ENERGY.**

12 “(a) TREATMENT AS EXPENSES.—A taxpayer may
 13 elect to treat the cost of any property used in the produc-
 14 tion of energy as an expense which is not chargeable to
 15 capital account. Any cost so treated shall be allowed as
 16 a deduction for the taxable year in which the property is
 17 placed in service.

18 “(b) ELECTION.—

19 “(1) IN GENERAL.—An election under this sec-
 20 tion for any taxable year shall be made on the tax-
 21 payer’s return of the tax imposed by this chapter for
 22 the taxable year. Such election shall specify the
 23 property to which the election applies and shall be
 24 made in such manner as the Secretary may by regu-
 25 lations prescribe.

1 “(2) ELECTION IRREVOCABLE.—Any election
2 made under this section may not be revoked except
3 with the consent of the Secretary.

4 “(c) PROPERTY USED IN THE PRODUCTION OF EN-
5 ERGY.—For purposes of this section, the term ‘property
6 used in the production of energy’ means property—

7 “(1) used in the production of energy,

8 “(2) the original use of which commences with
9 the taxpayer, and

10 “(3) which is placed in service by the taxpayer
11 after the date of the enactment of this section.

12 “(d) COORDINATION.—No expenditures shall be
13 taken into account under subsection (a) with respect to
14 the portion of the cost of any property taken into account
15 in determining a credit or deduction under any other sec-
16 tion of this chapter.

17 “(e) BASIS REDUCTION.—For purposes of this sub-
18 title, if a deduction is allowed under this section with re-
19 spect to any property, the basis of such property shall be
20 reduced by the amount of the deduction so allowed.

21 “(f) REPORTING.—No deduction shall be allowed
22 under subsection (a) to any taxpayer for any taxable year
23 unless such taxpayer files with the Secretary a report con-
24 taining such information with respect to the operation of
25 the mines of the taxpayer as the Secretary shall require.”.

1 (B) Section 1016(a) is amended by strik-
2 ing “and” at the end of paragraph (36), by
3 striking the period at the end of paragraph (37)
4 and inserting “, and”, and by adding at the end
5 the following new paragraph:

6 “(38) to the extent provided in section
7 179F(e).”.

8 (C) Section 263(a)(1) of the Internal Rev-
9 enue Code of 1986 (relating to capital expendi-
10 tures) is amended by striking “or” at the end
11 of subparagraph (K), by striking the period at
12 the end of paragraph (L) and inserting “, or”,
13 and by adding at the end the following new sub-
14 paragraph:

15 “(M) expenditures for which a deduction is
16 allowed under section 179F.”.

17 (D) Section 1245(a) of such Code is
18 amended by inserting “179F,” after “179E,”
19 both places it appears in paragraphs (2)(C) and
20 (3)(C).

21 (E) The table of sections for part VI of
22 subchapter B of chapter 1 of such Code is
23 amended by inserting after the item relating to
24 section 179E the following new item:

“Sec. 179F. Election to expense property used in the production of energy.”.

1 (2) EFFECTIVE DATE.—The amendments made
 2 by this subsection shall apply to taxable years begin-
 3 ning after December 31, 2012.

4 **SEC. 705. MANAGEMENT AND DISPOSAL OF COAL COMBUS-**
 5 **TION RESIDUALS.**

6 (a) AMENDMENT TO SUBTITLE D OF THE SOLID
 7 WASTE DISPOSAL ACT.—Subtitle D of the Solid Waste
 8 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
 9 ing at the end the following new section:

10 **“SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COM-**
 11 **BUSTION RESIDUALS.**

12 “(a) STATE PERMIT PROGRAMS FOR COAL COMBUS-
 13 TION RESIDUALS.—Each State may adopt and implement
 14 a coal combustion residuals permit program.

15 “(b) STATE ACTIONS.—

16 “(1) NOTIFICATION.—Not later than 6 months
 17 after the date of enactment of this section (except
 18 as provided by the deadline identified under sub-
 19 section (d)(2)(B)), the Governor of each State shall
 20 notify the Administrator, in writing, whether such
 21 State will adopt and implement a coal combustion
 22 residuals permit program.

23 “(2) CERTIFICATION.—

24 “(A) IN GENERAL.—Not later than 36
 25 months after the date of enactment of this sec-

tion (except as provided in subsections (f)(1)(A) and (f)(1)(C)), in the case of a State that has notified the Administrator that it will implement a coal combustion residuals permit program, the head of the lead State agency responsible for implementing the coal combustion residuals permit program shall submit to the Administrator a certification that such coal combustion residuals permit program meets the specifications described in subsection (c)(1).

“(B) CONTENTS.—A certification submitted under this paragraph shall include—

“(i) a letter identifying the lead State agency responsible for implementing the coal combustion residuals permit program, signed by the head of such agency;

“(ii) identification of any other State agencies involved with the implementation of the coal combustion residuals permit program;

“(iii) a narrative description that provides an explanation of how the State will ensure that the coal combustion residuals permit program meets the requirements of

1 this section, including a description of the
2 State’s—

3 “(I) process to inspect or other-
4 wise determine compliance with such
5 permit program;

6 “(II) process to enforce the re-
7 quirements of such permit program;
8 and

9 “(III) public participation proc-
10 ess for the promulgation, amendment,
11 or repeal of regulations for, and the
12 issuance of permits under, such per-
13 mit program;

14 “(iv) a legal certification that the
15 State has, at the time of certification, fully
16 effective statutes or regulations necessary
17 to implement a coal combustion residuals
18 permit program that meets the specifica-
19 tions described in subsection (c)(1); and

20 “(v) copies of State statutes and regu-
21 lations described in clause (iv).

22 “(3) MAINTENANCE OF 4005(c) OR 3006 PRO-
23 GRAM.—In order to adopt or implement a coal com-
24 bustion residuals permit program under this section
25 (including pursuant to subsection (f)), the State

1 agency responsible for implementing a coal combus-
2 tion residuals permit program in a State shall main-
3 tain an approved program under section 4005(c) or
4 an authorized program under section 3006.

5 “(c) PERMIT PROGRAM SPECIFICATIONS.—

6 “(1) MINIMUM REQUIREMENTS.—The specifica-
7 tions described in this subsection for a coal combus-
8 tion residuals permit program are as follows:

9 “(A) The revised criteria described in
10 paragraph (2) shall apply to a coal combustion
11 residuals permit program, except as provided in
12 paragraph (3).

13 “(B) Each structure shall be, in accord-
14 ance with generally accepted engineering stand-
15 ards for the structural integrity of such struc-
16 tures, designed, constructed, and maintained to
17 provide for containment of the maximum vol-
18 umes of coal combustion residuals appropriate
19 for the structure. If a structure is determined
20 by the head of the agency responsible for imple-
21 menting the coal combustion residuals permit
22 program to be deficient, the head of such agen-
23 cy has authority to require action to correct the
24 deficiency according to a schedule determined
25 by such agency. If the identified deficiency is

1 not corrected according to such schedule, the
2 head of such agency has authority to require
3 that the structure close in accordance with sub-
4 section (h).

5 “(C) The coal combustion residuals permit
6 program shall apply the revised criteria promul-
7 gated pursuant to section 4010(c) for location,
8 design, groundwater monitoring, corrective ac-
9 tion, financial assurance, closure, and post-clo-
10 sure described in paragraph (2) and the speci-
11 fications described in this paragraph to surface
12 impoundments.

13 “(D) If a structure that is classified as
14 posing a high hazard potential pursuant to the
15 guidelines published by the Federal Emergency
16 Management Agency entitled ‘Federal Guide-
17 lines for Dam Safety: Hazard Potential Classi-
18 fication System for Dams’ (FEMA Publication
19 Number 333) is determined by the head of the
20 agency responsible for implementing the coal
21 combustion residuals permit program to be defi-
22 cient with respect to the structural integrity re-
23 quirement in subparagraph (B), the head of
24 such agency has authority to require action to
25 correct the deficiency according to a schedule

1 determined by such agency. If the identified de-
2 ficiency is not corrected according to such
3 schedule, the head of such agency has authority
4 to require that the structure close in accordance
5 with subsection (h).

6 “(E) New structures that first receive coal
7 combustion residuals after the date of enact-
8 ment of this section shall be constructed with a
9 base located a minimum of two feet above the
10 upper limit of the natural water table.

11 “(F) In the case of a coal combustion re-
12 siduals permit program implemented by a
13 State, the State has the authority to inspect
14 structures and implement and enforce such per-
15 mit program.

16 “(G) In the case of a coal combustion re-
17 siduals permit program implemented by a
18 State, the State has the authority to address
19 wind dispersal of dust from coal combustion re-
20 siduals by requiring dust control measures, as
21 determined appropriate by the head of the lead
22 State agency responsible for implementing the
23 coal combustion residuals permit program.

24 “(2) REVISED CRITERIA.—The revised criteria
25 described in this paragraph are—

1 “(A) the revised criteria for design,
2 groundwater monitoring, corrective action, clo-
3 sure, and post-closure, for structures, includ-
4 ing—

5 “(i) for new structures, and lateral ex-
6 pansions of existing structures, that first
7 receive coal combustion residuals after the
8 date of enactment of this section, the re-
9 vised criteria regarding design require-
10 ments described in section 258.40 of title
11 40, Code of Federal Regulations; and

12 “(ii) for all structures that receive
13 coal combustion residuals after the date of
14 enactment of this section, the revised cri-
15 teria regarding groundwater monitoring
16 and corrective action requirements de-
17 scribed in subpart E of part 258 of title
18 40, Code of Federal Regulations, except
19 that, for the purposes of this paragraph,
20 such revised criteria shall also include—

21 “(I) for the purposes of detection
22 monitoring, the constituents boron,
23 chloride, conductivity, fluoride, mer-
24 cury, pH, sulfate, sulfide, and total
25 dissolved solids; and

1 “(II) for the purposes of assess-
2 ment monitoring, the constituents alu-
3 minum, boron, chloride, fluoride, iron,
4 manganese, molybdenum, pH, sulfate,
5 and total dissolved solids;

6 “(B) the revised criteria for location re-
7 strictions described in—

8 “(i) for new structures, and lateral ex-
9 pansions of existing structures, that first
10 receive coal combustion residuals after the
11 date of enactment of this section, sections
12 258.11 through 258.15 of title 40, Code of
13 Federal Regulations; and

14 “(ii) for existing structures that re-
15 ceive coal combustion residuals after the
16 date of enactment of this section, sections
17 258.11 and 258.15 of title 40, Code of
18 Federal Regulations;

19 “(C) for all structures that receive coal
20 combustion residuals after the date of enact-
21 ment of this section, the revised criteria for air
22 quality described in section 258.24 of title 40,
23 Code of Federal Regulations;

24 “(D) for all structures that receive coal
25 combustion residuals after the date of enact-

1 ment of this section, the revised criteria for fi-
2 nancial assurance described in subpart G of
3 part 258 of title 40, Code of Federal Regula-
4 tions;

5 “(E) for all structures that receive coal
6 combustion residuals after the date of enact-
7 ment of this section, the revised criteria for sur-
8 face water described in section 258.27 of title
9 40, Code of Federal Regulations;

10 “(F) for all structures that receive coal
11 combustion residuals after the date of enact-
12 ment of this section, the revised criteria for rec-
13 ordkeeping described in section 258.29 of title
14 40, Code of Federal Regulations;

15 “(G) for landfills and other land-based
16 units, other than surface impoundments, that
17 receive coal combustion residuals after the date
18 of enactment of this section, the revised criteria
19 for run-on and run-off control systems de-
20 scribed in section 258.26 of title 40, Code of
21 Federal Regulations; and

22 “(H) for surface impoundments that re-
23 ceive coal combustion residuals after the date of
24 enactment of this section, the revised criteria
25 for run-off control systems described in section

1 258.26(a)(2) of title 40, Code of Federal Regu-
2 lations.

3 “(3) APPLICABILITY OF CERTAIN REQUIRE-
4 MENTS.—A State may determine that one or more
5 of the requirements of the revised criteria described
6 in paragraph (2) is not needed for the management
7 of coal combustion residuals in that State, and may
8 decline to apply such requirement as part of its coal
9 combustion residuals permit program. If a State de-
10 clines to apply a requirement under this paragraph,
11 the State shall include in the certification under sub-
12 section (b)(2) a description of such requirement and
13 the reasons such requirement is not needed in the
14 State. If the Administrator determines that a State
15 determination under this paragraph does not accu-
16 rately reflect the needs for the management of coal
17 combustion residuals in the State, the Administrator
18 may treat such State determination as a deficiency
19 under subsection (d).

20 “(d) WRITTEN NOTICE AND OPPORTUNITY TO REM-
21 EDY.—

22 “(1) IN GENERAL.—The Administrator shall
23 provide to a State written notice and an opportunity
24 to remedy deficiencies in accordance with paragraph
25 (2) if at any time the State—

1 “(A) does not satisfy the notification re-
2 quirement under subsection (b)(1);

3 “(B) has not submitted a certification
4 under subsection (b)(2);

5 “(C) does not satisfy the maintenance re-
6 quirement under subsection (b)(3); or

7 “(D) is not implementing a coal combus-
8 tion residuals permit program that meets the
9 specifications described in subsection (c)(1).

10 “(2) CONTENTS OF NOTICE; DEADLINE FOR RE-
11 SPONSE.—A notice provided under this subsection
12 shall—

13 “(A) include findings of the Administrator
14 detailing any applicable deficiencies in—

15 “(i) compliance by the State with the
16 notification requirement under subsection
17 (b)(1);

18 “(ii) compliance by the State with the
19 certification requirement under subsection
20 (b)(2);

21 “(iii) compliance by the State with the
22 maintenance requirement under subsection
23 (b)(3); and

24 “(iv) the State coal combustion re-
25 siduals permit program in meeting the

1 specifications described in subsection
2 (c)(1); and

3 “(B) identify, in collaboration with the
4 State, a reasonable deadline, which shall be not
5 sooner than 6 months after the State receives
6 the notice, by which the State shall remedy the
7 deficiencies detailed under subparagraph (A).

8 “(e) IMPLEMENTATION BY ADMINISTRATOR.—

9 “(1) IN GENERAL.—The Administrator shall
10 implement a coal combustion residuals permit pro-
11 gram for a State only in the following cir-
12 cumstances:

13 “(A) If the Governor of such State notifies
14 the Administrator under subsection (b)(1) that
15 such State will not adopt and implement such
16 a permit program.

17 “(B) If such State has received a notice
18 under subsection (d) and, after any review
19 brought by the State under section 7006, fails,
20 by the deadline identified in such notice under
21 subsection (d)(2)(B), to remedy the deficiencies
22 detailed in such notice under subsection
23 (d)(2)(A).

1 “(C) If such State informs the Adminis-
2 trator, in writing, that such State will no longer
3 implement such a permit program.

4 “(2) REQUIREMENTS.—If the Administrator
5 implements a coal combustion residuals permit pro-
6 gram for a State under paragraph (1), such permit
7 program shall consist of the specifications described
8 in subsection (c)(1).

9 “(3) ENFORCEMENT.—If the Administrator im-
10 plements a coal combustion residuals permit pro-
11 gram for a State under paragraph (1), the authori-
12 ties referred to in section 4005(c)(2)(A) shall apply
13 with respect to coal combustion residuals and struc-
14 tures and the Administrator may use such authori-
15 ties to inspect, gather information, and enforce the
16 requirements of this section in the State.

17 “(f) STATE CONTROL AFTER IMPLEMENTATION BY
18 ADMINISTRATOR.—

19 “(1) STATE CONTROL.—

20 “(A) NEW ADOPTION AND IMPLEMENTA-
21 TION BY STATE.—For a State for which the
22 Administrator is implementing a coal combus-
23 tion residuals permit program under subsection
24 (e)(1)(A), the State may adopt and implement
25 such a permit program by—

1 “(i) notifying the Administrator that
2 the State will adopt and implement such a
3 permit program;

4 “(ii) not later than 6 months after the
5 date of such notification, submitting to the
6 Administrator a certification under sub-
7 section (b)(2); and

8 “(iii) receiving from the Adminis-
9 trator—

10 “(I) a determination that the
11 State coal combustion residuals per-
12 mit program meets the specifications
13 described in subsection (c)(1); and

14 “(II) a timeline for transition of
15 control of the coal combustion residu-
16 als permit program.

17 “(B) REMEDYING DEFICIENT PERMIT PRO-
18 GRAM.—For a State for which the Adminis-
19 trator is implementing a coal combustion re-
20 siduals permit program under subsection
21 (e)(1)(B), the State may adopt and implement
22 such a permit program by—

23 “(i) remedying the deficiencies de-
24 tailed in the notice provided under sub-
25 section (d)(2)(A); and

1 “(ii) receiving from the Adminis-
2 trator—

3 “(I) a determination that the de-
4 ficiencies detailed in such notice have
5 been remedied; and

6 “(II) a timeline for transition of
7 control of the coal combustion residu-
8 als permit program.

9 “(C) RESUMPTION OF IMPLEMENTATION
10 BY STATE.—For a State for which the Adminis-
11 trator is implementing a coal combustion re-
12 siduals permit program under subsection
13 (e)(1)(C), the State may adopt and implement
14 such a permit program by—

15 “(i) notifying the Administrator that
16 the State will adopt and implement such a
17 permit program;

18 “(ii) not later than 6 months after the
19 date of such notification, submitting to the
20 Administrator a certification under sub-
21 section (b)(2); and

22 “(iii) receiving from the Adminis-
23 trator—

24 “(I) a determination that the
25 State coal combustion residuals per-

mit program meets the specifications
described in subsection (c)(1); and

“(II) a timeline for transition of
control of the coal combustion residu-
als permit program.

“(2) REVIEW OF DETERMINATION.—

“(A) DETERMINATION REQUIRED.—The
Administrator shall make a determination
under paragraph (1) not later than 90 days
after the date on which the State submits a cer-
tification under paragraph (1)(A)(ii) or
(1)(C)(ii), or notifies the Administrator that the
deficiencies have been remedied pursuant to
paragraph (1)(B)(i), as applicable.

“(B) REVIEW.—A State may obtain a re-
view of a determination by the Administrator
under paragraph (1) as if such determination
was a final regulation for purposes of section
7006.

“(3) IMPLEMENTATION DURING TRANSITION.—

“(A) EFFECT ON ACTIONS AND ORDERS.—
Actions taken or orders issued pursuant to a
coal combustion residuals permit program shall
remain in effect if—

1 “(i) a State takes control of its coal
2 combustion residuals permit program from
3 the Administrator under paragraph (1); or

4 “(ii) the Administrator takes control
5 of a coal combustion residuals permit pro-
6 gram from a State under subsection (e).

7 “(B) CHANGE IN REQUIREMENTS.—Sub-
8 paragraph (A) shall apply to such actions and
9 orders until such time as the Administrator or
10 the head of the lead State agency responsible
11 for implementing the coal combustion residuals
12 permit program, as applicable—

13 “(i) implements changes to the re-
14 quirements of the coal combustion residu-
15 als permit program with respect to the
16 basis for the action or order; or

17 “(ii) certifies the completion of a cor-
18 rective action that is the subject of the ac-
19 tion or order.

20 “(4) SINGLE PERMIT PROGRAM.—If a State
21 adopts and implements a coal combustion residuals
22 permit program under this subsection, the Adminis-
23 trator shall cease to implement the permit program
24 implemented under subsection (e) for such State.

1 “(g) EFFECT ON DETERMINATION UNDER 4005(c)
2 OR 3006.—The Administrator shall not consider the im-
3 plementation of a coal combustion residuals permit pro-
4 gram by the Administrator under subsection (e) in making
5 a determination of approval for a permit program or other
6 system of prior approval and conditions under section
7 4005(c) or of authorization for a program under section
8 3006.

9 “(h) CLOSURE.—If it is determined, pursuant to a
10 coal combustion residuals permit program, that a struc-
11 ture should close, the time period and method for the clo-
12 sure of such structure shall be set forth in a closure plan
13 that establishes a deadline for completion and that takes
14 into account the nature and the site-specific characteris-
15 ties of the structure to be closed. In the case of a surface
16 impoundment, the closure plan shall require, at a min-
17 imum, the removal of liquid and the stabilization of re-
18 maining waste, as necessary to support the final cover.

19 “(i) AUTHORITY.—

20 “(1) STATE AUTHORITY.—Nothing in this sec-
21 tion shall preclude or deny any right of any State to
22 adopt or enforce any regulation or requirement re-
23 specting coal combustion residuals that is more
24 stringent or broader in scope than a regulation or
25 requirement under this section.

1 “(2) AUTHORITY OF THE ADMINISTRATOR.—

2 “(A) IN GENERAL.—Except as provided in
3 subsection (e) of this section and section 6005
4 of this title, the Administrator shall, with re-
5 spect to the regulation of coal combustion re-
6 siduals, defer to the States pursuant to this sec-
7 tion.

8 “(B) IMMINENT HAZARD.—Nothing in this
9 section shall be construed to affect the author-
10 ity of the Administrator under section 7003
11 with respect to coal combustion residuals.

12 “(C) TECHNICAL AND ENFORCEMENT AS-
13 SISTANCE ONLY UPON REQUEST.—Upon re-
14 quest from the head of a lead State agency that
15 is implementing a coal combustion residuals
16 permit program, the Administrator may provide
17 to such State agency only the technical or en-
18 forcement assistance requested.

19 “(3) CITIZEN SUITS.—Nothing in this section
20 shall be construed to affect the authority of a person
21 to commence a civil action in accordance with sec-
22 tion 7002.

23 “(j) MINE RECLAMATION ACTIVITIES.—A coal com-
24 bustion residuals permit program implemented under sub-
25 section (e) by the Administrator shall not apply to the uti-

1 lization, placement, and storage of coal combustion residu-
2 als at surface mining and reclamation operations.

3 “(k) DEFINITIONS.—In this section:

4 “(1) COAL COMBUSTION RESIDUALS.—The
5 term ‘coal combustion residuals’ means—

6 “(A) the solid wastes listed in section
7 3001(b)(3)(A)(i), including recoverable mate-
8 rials from such wastes;

9 “(B) coal combustion wastes that are co-
10 managed with wastes produced in conjunction
11 with the combustion of coal, provided that such
12 wastes are not segregated and disposed of sepa-
13 rately from the coal combustion wastes and
14 comprise a relatively small proportion of the
15 total wastes being disposed in the structure;

16 “(C) fluidized bed combustion wastes;

17 “(D) wastes from the co-burning of coal
18 with nonhazardous secondary materials pro-
19 vided that coal makes up at least 50 percent of
20 the total fuel burned; and

21 “(E) wastes from the co-burning of coal
22 with materials described in subparagraph (A)
23 that are recovered from monofills.

24 “(2) COAL COMBUSTION RESIDUALS PERMIT
25 PROGRAM.—The term ‘coal combustion residuals

1 permit program’ means a permit program or other
2 system of prior approval and conditions that is
3 adopted by or for a State for the management and
4 disposal of coal combustion residuals to the extent
5 such activities occur in structures in such State.

6 “(3) STRUCTURE.—The term ‘structure’ means
7 a landfill, surface impoundment, or other land-based
8 unit which may receive coal combustion residuals.

9 “(4) REVISED CRITERIA.—The term ‘revised
10 criteria’ means the criteria promulgated for munic-
11 ipal solid waste landfill units under section 4004(a)
12 and under section 1008(a)(3), as revised under sec-
13 tion 4010(c) in accordance with the requirement of
14 such section that the criteria protect human health
15 and the environment.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents contained in section 1001 of the Solid Waste Dis-
18 posal Act is amended by inserting after the item relating
19 to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

20 (c) 2000 REGULATORY DETERMINATION.—Nothing
21 in this section, or the amendments made by this section,
22 shall be construed to alter in any manner the Environ-
23 mental Protection Agency’s regulatory determination enti-
24 tled “Notice of Regulatory Determination on Wastes from
25 the Combustion of Fossil Fuels”, published at 65 Fed.

1 Reg. 32214 (May 22, 2000), that the fossil fuel combus-
 2 tion wastes addressed in that determination do not war-
 3 rant regulation under subtitle C of the Solid Waste Dis-
 4 posal Act (42 U.S.C. 6921 et seq.).

5 **TITLE VIII—ATTAINMENT OF NA-** 6 **TIONAL AMBIENT AIR QUAL-** 7 **ITY STANDARDS**

8 **SEC. 801. AIR QUALITY MONITORING AND MODELING** 9 **METHODOLOGIES.**

10 (a) NONATTAINMENT DESIGNATION TO BE BASED
 11 ON MONITORING DATA.—Section 107 of the Clean Air Act
 12 (42 U.S.C. 7407) is amended by adding at the end the
 13 following:

14 “(f) NONATTAINMENT DESIGNATION TO BE BASED
 15 ON MONITORING DATA.—Any designation or redesigna-
 16 tion of an area or portion of an area within a State or
 17 interstate area as a nonattainment area for a pollutant
 18 within the meaning of subsection (d)(1)(A)(i) shall—

19 “(1) be based on monitoring data; and

20 “(2) not take into consideration modeling
 21 data.”.

22 (b) AIR QUALITY MODELING METHODOLOGIES.—

23 (1) METHODOLOGIES.—Section 110 of the
 24 Clean Air Act (42 U.S.C. 7410) is amended by add-
 25 ing at the end the following:

1 “(d) AIR QUALITY MODELING METHODOLOGIES.—
 2 The Administrator shall, by regulation, set forth the air
 3 quality modeling methodologies required to be used for
 4 purposes of air quality modeling pursuant to subsection
 5 (a)(2)(K).”.

6 (2) REGULATIONS.—The Administrator of the
 7 Environmental Protection Agency shall promulgate
 8 final regulations, as required by section 110(d) of
 9 the Clean Air Act, as added by paragraph (1), not
 10 later than one year after the date of the enactment
 11 of this Act.

12 **SEC. 802. EXTENDING COMPLIANCE FOR NAAQS ATTAIN-**
 13 **MENT FOR DOWNWIND STATES.**

14 Section 181 of the Clean Air Act (42 U.S.C. 7511)
 15 is amended by adding at the end the following:

16 “(d) EXTENDED ATTAINMENT DATE FOR CERTAIN
 17 DOWNWIND AREAS.—

18 “(1) DEFINITIONS.—In this subsection:

19 “(A) The term ‘upwind area’ means an
 20 area that—

21 “(i) affects nonattainment in another
 22 area (in this subsection referred to as the
 23 ‘downwind area’); and

24 “(ii) is either—

1 “(I) a nonattainment area with a
2 later attainment date than the down-
3 wind area; or

4 “(II) an area in another State
5 that the Administrator has found to
6 be significantly contributing to non-
7 attainment in the downwind area in
8 violation of section 110(a)(2)(D) and
9 for which the Administrator has es-
10 tablished requirements through notice
11 and comment rulemaking to reduce
12 the emissions causing such significant
13 contribution.

14 “(B) The term ‘current classification’
15 means the classification of a downwind area
16 under this section at the time of the determina-
17 tion under paragraph (2).

18 “(2) EXTENSION.—Notwithstanding subsection
19 (b)(2), a downwind area that is not in attainment
20 within 18 months of the attainment deadline re-
21 quired under this section may seek an extension of
22 time to come into attainment by petitioning the Ad-
23 ministrator for such an extension. If the Adminis-
24 trator—

1 “(A) determines that the area is a down-
2 wind area with respect to a particular national
3 ambient air quality standard for ozone;

4 “(B) approves a plan revision for such
5 area as provided in paragraph (3) prior to a re-
6 classification under subsection (b)(2)(A); and

7 “(C) determines that the petitioning down-
8 wind area has demonstrated that it is affected
9 by transport from an upwind area to a degree
10 that affects the area’s ability to attain,
11 the Administrator, in lieu of such reclassification,
12 may extend the attainment date for such downwind
13 area for such standard in accordance with paragraph
14 (5).

15 “(3) APPROVAL.—In order to extend the attain-
16 ment date for a downwind area under this sub-
17 section, the Administrator may approve a revision of
18 the applicable implementation plan for the downwind
19 area for the national ambient air quality standard
20 that—

21 “(A) complies with all requirements of this
22 Act applicable under the current classification
23 of the downwind area, including any require-
24 ments applicable to the area under section
25 172(c) for such standard;

1 “(B) includes any additional measures
2 needed to demonstrate attainment by the ex-
3 tended attainment date provided under this
4 subsection, and provides for implementation of
5 those measures as expeditiously as practicable;
6 and

7 “(C) provides appropriate measures to en-
8 sure that no area downwind of the area receiv-
9 ing the extended attainment date will be af-
10 fected by transport to a degree that affects the
11 other area’s ability to attain.

12 “(4) PRIOR RECLASSIFICATION DETERMINA-
13 TION.—If, after April 1, 2003, and prior to the time
14 the 1-hour ozone standard no longer applies to a
15 downwind area, the Administrator made a reclassi-
16 fication determination under subsection (b)(2)(A)
17 for such downwind area, and the Administrator ap-
18 proves a plan consistent with subparagraphs (A) and
19 (B) for such area, the reclassification shall be with-
20 drawn and, for purposes of implementing the 8-hour
21 ozone national ambient air quality standard, the
22 area shall be treated as if the reclassification never
23 occurred. Such plan must be submitted no later than
24 12 months following enactment of this subsection,
25 and—

1 “(A) the plan revision for the downwind
2 area must comply with all control and planning
3 requirements of this Act applicable under the
4 classification that applied immediately prior to
5 reclassification, including any requirements ap-
6 plicable to the area under section 172(c) for
7 such standard; and

8 “(B) the plan must include any additional
9 measures needed to demonstrate attainment no
10 later than the date on which the last reductions
11 in pollution transport that have been found by
12 the Administrator to significantly contribute to
13 nonattainment are required to be achieved by
14 the upwind area or areas.

15 “(5) EXTENDED DATE.—The attainment date
16 extended under this subsection shall provide for at-
17 tainment of such national ambient air quality stand-
18 ard for ozone in the downwind area as expeditiously
19 as practicable but no later than the new date that
20 the area would have been subject to had it been re-
21 classified under subsection (b)(2).

22 “(6) RULEMAKING.—Within 12 months after
23 the enactment of this subsection, the Administrator
24 shall, after notice and comment, promulgate rules to
25 determine, for purposes of paragraphs (2) and (3),

1 when an area is affected by transport to a degree
 2 that affects the area's ability to attain. The purpose
 3 of such rules shall be to ensure that downwind areas
 4 are not unjustly penalized.”.

5 **TITLE IX—SUB-BASIN REPORT-**
 6 **ING OF GREENHOUSE GAS**
 7 **EMISSIONS**

8 **SEC. 901. SUB-BASIN REPORTING OF GREENHOUSE GAS**
 9 **EMISSIONS.**

10 Section 114 of the Clean Air Act (42 U.S.C. 7414)
 11 is amended by adding at the end the following:

12 “(e) REPORTING OF GREENHOUSE GAS EMISSIONS
 13 FROM PETROLEUM AND NATURAL GAS SYSTEMS.—In re-
 14 quiring any owner or operator of any facility in the petro-
 15 leum and natural gas system source category (as such
 16 terms are used in part 98 of title 40, Code of Federal
 17 Regulations, and any successor regulations) to report
 18 greenhouse gas emissions from facilities in such category,
 19 the Administrator shall allow the owner or operator, at
 20 its election—

21 “(1) to designate sub-basins consisting of simi-
 22 lar fields within a larger basin; and

23 “(2) to report such emissions from such sub-ba-
 24 sins instead of reporting such emissions from the
 25 larger basin.”.

1 **TITLE X—IMPLEMENTATION OF**
2 **NATIONAL OCEAN POLICY**

3 **SEC. 1001. PROHIBITION ON USE OF FUNDS.**

4 (a) Federal departments and agencies are prohibited
5 from performing activities to implement Executive Order
6 13547.

7 **TITLE XI—OTHER PROVISIONS**

8 **SEC. 1101. ADMINISTRATIVE RECORD.**

9 The administrative record compiled by an agency re-
10 garding an application for a permit, authorization, or
11 other agency action involving a Priority Energy Project
12 shall be the sole and exclusive record for any appeal or
13 review of the permit action or other activity by that agency
14 or other agency, as applicable. Upon final agency action,
15 such record shall be closed and shall not be subject to any
16 further evidentiary proceedings or requirements unless re-
17 quested by the applicant.

18 **SEC. 1102. STATEMENT OF ENERGY EFFECTS.**

19 (a) PREPARATION.—

20 (1) REQUIREMENT.—An agency shall prepare
21 and submit a Statement of Energy Effects to the
22 Administrator of the Office of Information and Reg-
23 ulatory Affairs of the Office of Management and
24 Budget, for each proposed significant energy action.

1 (2) CONTENTS.—A Statement of Energy Ef-
2 fects shall consist of a detailed statement by the
3 agency responsible for the significant energy action
4 relating to—

5 (A) any adverse effects on energy supply,
6 distribution, or use (including a shortfall in
7 supply, price increases, and increased use of
8 foreign supplies) should the proposal be imple-
9 mented; and

10 (B) reasonable alternatives to the action
11 with adverse energy effects, and the expected
12 effects of such alternatives on energy supply,
13 distribution, and use.

14 (3) GUIDANCE AND CONSULTATION.—The Ad-
15 ministrator of the Office of Information and Regu-
16 latory Affairs shall provide guidance to the agencies
17 on the implementation of this section and shall con-
18 sult with other agencies as appropriate in the imple-
19 mentation of this section.

20 (b) PUBLICATION.—Agencies shall publish their
21 Statements of Energy Effects, or a summary thereof, in
22 each related notice of proposed rulemaking and in any re-
23 sulting final rule.

24 (c) DEFINITIONS.—For purposes of this subsection—

1 (1) the term “agency” has the meaning given
2 that term in paragraph (1) of section 3502 of title
3 44, United States Code, except that the term does
4 not include an independent regulatory agency, as de-
5 fined in paragraph (5) of that section; and

6 (2) the term “significant energy action” means
7 any action by an agency that is expected to lead to
8 promulgation of a final regulation and that—

9 (A) is likely to have a significant adverse
10 effect on the supply, distribution, or use of en-
11 ergy; or

12 (B) is designated by the Administrator of
13 the Office of Information and Regulatory Af-
14 fairs as a significant energy action.

15 **SEC. 1103. PRIORITY-ENERGY PROJECT PERMIT DURATION.**

16 The approval to construct or operate a Priority En-
17 ergy Project pursuant to any Federal permit, as applica-
18 ble, shall remain valid and authorized for the later of—

19 (1) 18 months following the date on which the
20 last permit needed by a Priority Energy Project to
21 commence construction or operation is final and no
22 longer subject to judicial review;

23 (2) 3 years; or

1 (3) in the case of a nationwide permit issued by
2 the Army Corps of Engineers pursuant to part 330
3 of title 33, Code of Federal Regulations, 5 years.

4 **SEC. 1104. EXEMPTION FOR TAKINGS OF MIGRATORY BIRD**
5 **INCIDENTAL TO ENERGY DEVELOPMENT AND**
6 **PRODUCTION.**

7 Section 6 of The Migratory Bird Treaty Act (16
8 U.S.C. 707) is amended in subsection (a) by striking “not
9 more than” and all that follows through the end of the
10 subsection and inserting “not more than \$1,000.”.

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